

THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

CIVIL ACTION NO. 3:05-CV-30109-MAP

JOANN PELLETIER)
)
Plaintiff,)
)
v.)
)
SANDRA T. TALBOT, CHITRA)
PUBLICATIONS, CHARIOT PUBLISHING, INC.)
As General Partner of Chitra Publications,)
CHRISTIANE MEUNIER, As Officer of Chariot)
Publishing, Inc., CHRISTIANE MEUNIER, As)
Owner of Chitra Publications, and CHRISTIANE)
MEUNIER d/b/a MOON OVER MOUNTAIN,)
Defendants.)

**DEFENDANT, SANDRA TALBOT'S, OPPOSITION TO PLAINTIFF'S MOTION TO
ATTACH REAL ESTATE**

Now comes the defendant, Sandra Talbot ("Talbot"), and hereby respectfully opposes the plaintiff, JoAnn Pelletier's ("Pelletier's") Motion to Attach Talbot's Real Estate ("Attachment Motion"). Ms. Talbot requests that said Motion be denied for the following reasons.

I. Introduction

This is a dispute about an allegedly copyrighted quilt. As a result of this dispute, Pelletier seeks a \$250,000.00 attachment against the residential home of Sandra Talbot and her husband, Kent, where they have lived for 30 years. The Talbots raised their children in the house at issue, and have no present intention of moving. *See* Declaration of Sandra Talbot in Support of Opposition to Plaintiff's Motion to Attach Real Estate ("Talbot Decl."), ¶ 3.

Pelletier contends that she possess copyright protection in an original quilt design and the instructions for making that quilt.¹ She contends that Talbot, who also made a quilt, copied and infringed her design. Talbot denies that she copied Pelletier's quilt, denies that Pelletier's quilt constitutes an original work of authorship, and denies that the two quilts are sufficiently similar in relevant respects that Talbot's would constitute an infringement under any circumstances.

For the following reasons, an attachment of the Talbot's real estate is inappropriate.

II. Argument

A. The Court Has Already Found That Pelletier Has Not Demonstrated A Likelihood Of Success On The Merits

Pelletier previously sought a preliminary injunction. The Court denied that motion. *See* Memorandum and Order Regarding Plaintiff's Motion for Preliminary Injunction, attached to the Declaration of Steven M. Coyle in Support of Opposition to Plaintiff's Motion for Real Estate Attachment ("Coyle Decl.") as Exhibit A.² After acknowledging the parties' competing and heavily fact-driven claims and defenses, and though noting that the issue may be close, the Court found that it "cannot say with assurance that there is a likelihood that Plaintiff will succeed on her claim of original design." *See id.* at p. 2 (emphasis in original).

As Pelletier acknowledges, to obtain an attachment the Court must find a "reasonable *likelihood*" that she will recover a judgment equal to or greater than the amount of the attachment sought. *See* Pelletier's Attachment Motion, p. 2, citing Mass. R. Civ. Pro. 4.1(c) (emphasis added). Pelletier has not demonstrated this. She failed to do so as part of her injunction motion,

¹ In quilting terms, the instructions are referred to as the "pattern."

² Hereafter, references to "Exhibit ____" or Exh. ____" will be to those attached to the Coyle Declaration.

and nothing has changed since then. Nothing learned in discovery has changed the principle basis for finding a lack of proof of likelihood of success – that is, whether the quilt design in question and/or any similarity between it and Talbot’s quilt was actually the result of a “common ancestor” quilt design by Janet Kime. *See* Exh. A, p. 2.

Thus, Ms. Pelletier’s Attachment Motion must be denied.

B. Talbot Is Likely To Successful Defend Against Pelletier’s Claims

The information learned through discovery has only further deepened the factual issues and, if anything, point to the strong likelihood of Talbot’s successful defense of the matter.³ For example, it is undisputed that Ms. Talbot first made her quilt in 1995-1996, while Pelletier never actually made her allegedly copyrighted quilt until January of 1998. *See* Talbot Depo, attached as Exh B, pp. 137; Pelletier Depo, attached as Exhibit C, pp. 134. Thus, Ms. Talbot made the quilt first. Furthermore, Ms. Talbot testified that she never saw Pelletier’s quilt before making her own and that, quite possibly, Pelletier copied the quilt from Ms. Talbot after she showed her quilt in Pelletier’s quilting. *See* Talbot Depo, Exh. B, pp. 108-109. Ms. Pelletier also acknowledged at her deposition the substantial identity of elements from her quilt to that disclosed earlier by the Janet Kime book. *See* Pelletier Depo, attached as Exhibit C, pp. 234-245. These are only some of the examples of facts that support Talbot’s likely success in her

³ The discovery deadline, for both fact and expert discovery, has expired. Ms. Pelletier’s brief suggests that some additional discovery may be sought. *See* Attachment Motion, pp. 4-5. Ms. Talbot, however (and presumably the Chitra defendants), maintain that no further discovery should be permitted. The deadlines were already extended once, and there is simply no ground for permitting continued, expensive discovery in this case.

defense of Pelletier's claims.⁴ Under the circumstances, an attachment of Talbot's real estate would be entirely inappropriate.

B. There Is No Basis For Concluding That Pelletier Will Recover Any Damages From Talbot

There is simply no reason to find that Pelletier will recover *any* amount from Talbot (or any other defendants), let alone an amount "equal to or greater than" \$250,000. *See* Mass. R. Civ. P. 4.1(c).

There are three types of damages recoverable in a copyright action under 17 U.S.C. § 504(b) and (c). They are: (1) the defendant's profits; (2) actual damages; and (3) statutory damages. Pelletier has not demonstrated a "likelihood" of recovery under any of these theories.

First, the evidence is undisputed that Ms. Talbot received no compensation from Chitra or anyone else for making the accused quilt. Chitra did not pay her for the quilt, nor did Ms. Talbot receive any proceeds from the sales of any magazines or other publications including images of her quilt. *See* Talbot Decl., ¶ 4. Ms. Talbot never sold her quilt or commercialized it in any way and, therefore, made no profits. *See* Talbot Decl., ¶ 4. Furthermore, there is no

⁴ In support of her contention that Ms. Talbot copied her quilt, Ms. Pelletier relies upon a Declaration from an alleged third-party witness, Connie Roy. Ms. Roy's Declaration lacks credibility, and is likely inadmissible. First, it is inherently ambiguous. Ms. Roy's Declaration testifies to having been shown Ms. Pelletier's "Sew Many Spools" quilt at some undated time in the 1990's. *See* Roy Declaration, attached to Pelletier's Attachment Motion, ¶¶ 4-5. However, it is undisputed that Ms. Pelletier did not finish her quilt until July 27, 1998 and did not begin to call the design "Sew Many Spools" until she sent her copyright application to Washington D.C. in September, 2004. *See* Pelletier depo, pp 52, 93 and 134-136; *see also*, Talbot Depo, Exh. B, pp. 130-133. This Declaration was first produced during the deposition of Ms. Talbot on July 20, 2006. When counsel for Ms. Pelletier was questioned by opposing counsel about this ambiguity she responded, quite correctly, "I cannot speak to Ms. Roy relative to her testimony." *See* Talbot Depo, Exh. B, pp. 132-133. Unfortunately, at the time this Declaration was produced Ms. Roy was battling cancer and has since passed away. There is no longer an ability to ascertain what she meant when she said that Ms. Pelletier showed the class the "Sew Many Spools" design, or when whatever design Ms. Roy was referring to was actually shown.

evidence that Chitra or the other defendants obtained any profits from their publication of images of Talbot's quilt. *See* Christiane Meunier Declaration, ¶ 3. Thus, there are no defendant profits available for Ms. Pelletier to recover as an element of damages in this case.

Ms. Pelletier cannot recover actual damages because there are none. She has never sold or otherwise attempted to commercialize the quilt design at issue. *See* Pelletier depo, pp. 206-208. She has not suffered any economic injury as a result of the defendants' allegedly wrongful conduct.

Finally, Pelletier will be legally precluded from obtaining statutory damages. "No award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for...(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work." 17 U.S.C. § 412. *See also* *Mason v. Montgomery Data, Inc.*, 967 F.2d 135 (5th Cir. 1992); *Qualey v. Caring Center of Slidell*, 942 F. Supp. 1074 (E.D. La. 1996) (explaining *Mason*); *Venegas-Herandez v. Sonolux Records*, 370 F.3d 183 (1st Cir. 2004) (concurring with the 5th Circuit's interpretation Section 504(c) in *Mason* regarding "awards" of statutory damages).

It is undisputed that the effective date of registration is September 17, 2004. *See* Exhibit J of Pelletier's Attachment Motion. Ms. Pelletier's Certificate of Registration identifies the first publication of her work as January 21, 1993. *Id.* Thus, the first publication clearly occurred well before registration.⁵

⁵ Note that this is true even if Pelletier's first publication was in January of 1998, when she actually made her quilt.

It is also indisputable that any act of infringement allegedly committed by Ms. Talbot occurred prior to Ms. Pelletier's copyright registration. She made her quilt in 1995 or 1996, and Pelletier was aware of this at least as of sometime in 2000.⁶ *See* Pelletier Depo, attached as Exh. C, pp. 171-175; Pelletier's Answers to Interrogatories, attached as Exh. E, Answer no. 3. This is the only quilt or work of Ms. Talbot accused by Ms. Pelletier of infringement. *See* Pelletier Depo, attached as Exhibit C, pp. 405-406. Ms. Talbot authorized Chitra to publish photographs of her quilt on or about September 18, 2002. *See* Exh. 11 of Talbot's Depo, attached as Exh. D. This is the universe of conduct that even arguably comprises Talbot's infringement. Accordingly, 17 U.S.C. § 412(2) precludes any recovery of statutory damages or attorney's fees since the accused infringement occurred after Ms. Pelletier's first date of publication, and before the effective date of registrations.

Pelletier contends that Talbot may be jointly or severally liable to the extent that the Chitra defendants bear liability. Again, though, Ms. Pelletier cannot demonstrate a reasonable likelihood of recovering anything, let alone \$250,000, from the Chitra defendants. As noted, they made no profits, and Ms. Pelletier suffered no actual damages, leaving only statutory damages as a possible recovery means. However, Ms. Pelletier is barred from recovery of statutory damages against Chitra under 17 U.S.C. §412(2) just as with Ms. Talbot. Any act of

⁶ At some point in early 2000, Ms. Talbot consulted Ms. Pelletier about the quilt at issue as she was preparing to hang it at a local quilt show. *See* Pelletier's Answers to Interrogatories, attached as Exhibit E, Answer no. 3.

infringement allegedly committed by Chitra occurred prior to September 17, 2004, the date of Ms. Pelletier's registration.^{7 8} Thus, not statutory damages are available to Ms. Pelletier.

Finally, even if statutory damages were theoretically available to Ms. Pelletier (which, respectfully, they are not), there is absolutely no basis for Ms. Pelletier's contention that the Court is reasonably likely to award an amount "equal to or greater than" \$250,000.00. *See* Mass. R. Civ. P. 4.1(c). Therefore, granting Ms. Pelletier's motion would be inappropriate.

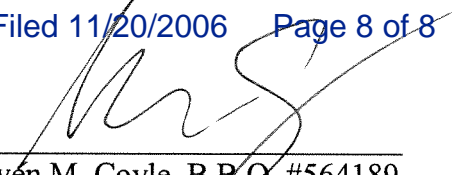
III. Conclusion

For all of the above reasons, Ms. Pelletier's Attachment Motion must be denied.

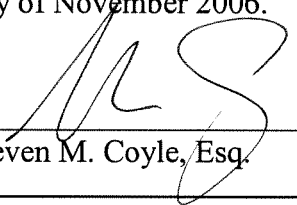
Oral Argument Requested

⁷ For example, Chitra's two publications containing images of Ms. Talbot's quilt were published in October/November 2003 and August/September 2004. *See* Pelletier's Answers to Interrogatories, attached as Exh. E, Answer no. 8.

⁸ Chitra's continuing publication of these periodicals or advertising of them on its websites after September 17, 2004 does not save Ms. Pelletier's claim for statutory damages. *See e.g., Qualey v. The Caring Center of Slidell*, 942 F.Supp. 1074, 1076-77 (E.D. La 1996), citing *Mason v. Montgomery Data, Inc.*, 967 F.2d 135, 143 (5th Cir. 1992) (noting "Congress' intent that statutory damages be denied [under § 412] not only for a particular infringement that a defendant commenced before registration, but for all of that defendant's infringements of a work if one of those infringements commenced prior to registration" and, further, "that statutory damages are to be calculated according to the number of works infringed, not the number of infringements...regardless of whether the acts [of infringement] were separate, isolated, or occurred in a related series."); *see also Great Southern Homes, inc. v. Johnson & Thompson Realtors*, 797 F.Supp. 609 (M.D. TN 1992) (no statutory damages available to holder of copyrighted home plans, where plans were not registered until after defendant copied plans and used them to construct a dwelling; construction of additional homes was not distinct act of infringement, but merely served to multiply any damages attributable to original infringing act of copying home plans); *Singh v. Famous Overseas, Inc.*, 680 F.Supp. 533 (E.D. N.Y. 1988) (holding that under § 412 "infringement" can mean either a single act or several or repeated acts of infringement, and has this latter meaning for infringement of copyright in unpublished work commenced before the effective date of registration).

By 
Steven M. Coyle, B.B.O. #564189
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
(860) 286-2929

I hereby certify that a true copy of the
above document was served upon the
attorney of record for each party
through the ECF system on the 20th
day of November 2006.


Steven M. Coyle, Esq.

THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

CIVIL ACTION NO. 3:05-CV-30109-MAP

JOANN PELLETIER)
)
Plaintiff,)
)
v.)
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SANDRA T. TALBOT, CHITRA)
PUBLICATIONS, CHARIOT PUBLISHING, INC.)
As General Partner of Chitra Publications,)
CHRISTIANE MEUNIER, As Officer of Chariot)
Publishing, Inc., CHRISTIANE MEUNIER, As)
Owner of Chitra Publications, and CHRISTIANE)
MEUNIER d/b/a MOON OVER MOUNTAIN,)
Defendants.)

**DECLARATION OF STEVEN M. COYLE IN SUPPORT OF OPPOSITION TO
PLAINTIFF'S MOTION FOR REAL ESTATE ATTACHMENT**


I, Steven M. Coyle, do hereby swear and state as follows:

1. I am lead counsel for the Plaintiff, Faro Technologies, Inc., in the above referenced matter.
2. Attached hereto as Exhibit A is a true and accurate copy of the Memorandum and Order Regarding Plaintiff's Motion for Preliminary Injunction.
3. Attached hereto as Exhibit B is a true and accurate copy of pages from Sandra T. Talbot's deposition taken on July 20, 2006.
4. Attached hereto as Exhibit C is a true and accurate copy of pages from Jo Ann Pelletier's deposition taken on June 21, 2006.
5. Attached hereto as Exhibit D is a true and accurate copy of Exhibit 11 of Sandra T. Talbot's deposition taken on July 20, 2006.

6. Attached hereto as Exhibit E is a true and accurate copy of Plaintiff Pelletier's Answers to First Set of Interrogatories of Defendant, Sandra T. Talbot.

Signed and sworn to under the pains and penalties of perjury this 20th day of November 2006.

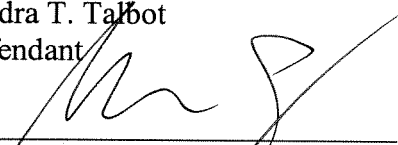
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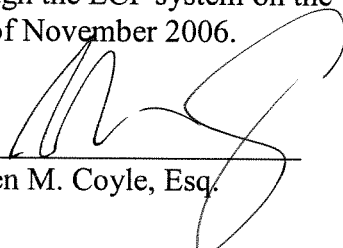
Steven M. Coyle, Esq.

Respectfully Submitted,

Sandra T. Talbot
Defendant


By _____
Steven M. Coyle, B.B.O. #564189
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
(860) 286-2929

I hereby certify that a true copy of the above document was served upon the attorney of record for each party through the ECF system on the 20th day of November 2006.



Steven M. Coyle, Esq.

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOANN PELLETIER,)
Plaintiff)
)
v.) CIV. ACTION NO. 05-30109-MAP
)
SANDRA T. TALBOT, ET AL.,)
Defendants)

MEMORANDUM AND ORDER REGARDING
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
(Dkt. No. 19)

May 22, 2006

PONSOR, D.J.

Plaintiff JoAnn Pelletier has filed this suit, alleging copyright infringement by Defendants Sandra T. Talbot, Chitra Publications, Chariot Publishing, Inc., and Christiane Meunier.

Plaintiff charges that Defendants copied her quilt pattern and design, "Sew Many Spools," in their pattern "Just Spooling Around."

The Motion for Preliminary Relief seeks an order enjoining Defendants from reproducing, advertising for sale, or distributing quilts, pictures of quilts, or instructions for quilts that use Plaintiff's pattern or design.¹ Plaintiff also seeks an order requiring Defendants to produce certain information that would permit Plaintiff to calculate her damages.

¹ Defendant Talbot has already stipulated to entry of preliminary injunction (Dkt. No. 22). This order therefore concerns only the remaining Defendants.

The parties' submissions and oral argument presented a very close question on the issue of likelihood of success on the merits. Significant evidence suggests that the "Sew Many Spools" design and pattern was independently created by Plaintiff and that it possesses "at least some minimal degree of creativity." Feist Publ'ns Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 345 (1991). In addition, the record is undisputed that Defendant Talbot took classes from Plaintiff at which quilting with the use of the traditional courthouse steps log cabin pattern was discussed.

On the other hand, certain evidence suggests that any similarity between "Sew Many Spools" and "Just Spooling Around" results from the existence of a common ancestor, namely certain quilts presented in a book by Janet Kime, Log Cabins: New Techniques for Traditional Quilts (1992). Thus the balance remains in equipoise, and Plaintiff is not entitled to preliminary relief. Although she will certainly have a strong case, the court cannot say with assurance that there is a likelihood that Plaintiff will succeed on her claim of original design. For this reason, the Motion for Preliminary Injunction is hereby DENIED.

In recognition of Plaintiff's near success in obtaining preliminary relief, the court will move this case quickly to trial. Along these lines, the court has ordered that all discovery in this case be completed by July 7, 2006, and that counsel appear before this court for a final pretrial

conference on July 20, 2006, at 3:00 p.m. At least five (5) days prior to the conference, counsel will file final pretrial memoranda in accordance with the attached order. Please note: failure to file a final pretrial memorandum as ordered may result in default or dismissal.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge

Exhibit B

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION No. 3:05-CV-30109-MAP

* * * * *
JOANN PELLETIER, *
Plaintiff *
vs. *
SANDRA T. TALBOT, CHITRA *
PUBLICATIONS, CHARIOT PUBLISHING, *
INC., As General Partner of Chitra *
Publications, CHRISTIANE MEUNIER, *
As Officer of Chariot *
Publishing, Inc., CHRISTIANE *
MEUNIER, As Owner of Chitra *
Publications, and CHRISTIANE *
MEUNIER d/b/a MOON OVER MOUNTAIN, *
Defendants *
* * * * *

DEPOSITION OF: SANDRA T. TALBOT
DOHERTY, WALLACE, PILLSBURY and MURPHY, P.C.
1414 Main Street 19th Floor
Springfield, Massachusetts
July 20, 2006
(9:20 a.m. to 4:00 p.m.)

Tacy A. Malandrinos
Court Reporter

July 20, 2006

Page 106	Page 108
<p>1 Q. So what you are trying to tell us 2 is that and I don't know if -- 3 MR. BUCKLEY: The last time I was 4 here someone borrowed my book and made it 5 an exhibit. Now I'm less one book. 6 MS. THOMPSON: No. I won't make 7 it an exhibit. 8 MR. COYLE: You can. 9 MR. BUCKLEY: I only have one copy 10 of that book. If you want to get one go 11 on line to quilters resources dot com and 12 you can buy one. 13 MS. THOMPSON: I'm just going to 14 hold it up for a minute. 15 First of all, the name of this book 16 is Log Cabin New Techniques for 17 Traditional Quilts by Janet Kime. 18 Copyright 1992. 19 Q. (By Ms. Thompson) Is that the 20 book you are saying that you purchased? 21 A. Yes, Ma'am. 22 Q. And when did you purchase this? 23 A. Probably right after it came out. 24 Q. You don't know whether it was 1992,</p>	<p>1 Q. If I understand you correctly, you 2 did not base yours at all on the blocks that 3 Mrs. Pelletier showed you how to make, whether 4 they were six inches, three inches or whatever, 5 in the quilting class? 6 A. I never looked back in there. 7 Q. Never looked back in there? 8 A. No. 9 Q. So it's pure coincidence, any 10 similarities what we agree on here, any 11 similarities between Exhibit 2 and Exhibit 3 are 12 pure coincidence? 13 MR. COYLE: Objection. 14 Q. (By Ms. Thompson) Is that what 15 your testimony is? 16 A. I made my quilt first. I don't 17 know. 18 Q. So you are saying if somebody finds 19 any part of this to be similar, it's just a 20 coincidence? 21 MR. COYLE: Objection. 22 THE WITNESS: No. I made my quilt 23 first. 24 Q. (By Ms. Thompson) So you think she</p>
Page 107	Page 109
<p>1 1993, 1994? 2 A. Well, it had to be 1992 or early 3 somewhere around there. Probably 1992. 4 Q. Let's look at this. This is the 5 yellow spool you were referring to on page 6 sixty-seven of the book I just cited, correct? 7 A. Uh-huh. 8 Q. So if I understand you correctly 9 you are saying you based your quilt, which is 10 Exhibit 3, on the yellow spool design in Janet 11 Kime's book on page sixty-seven? 12 A. The idea of it. 13 MR. BUCKLEY: I would just like to 14 object. There is also instructions on how 15 to do that on two separate parts of the 16 book. That's just a photograph of the 17 quilt. The instructions are in two 18 separate parts of the book on how to do 19 that. 20 Q. (By Ms. Thompson) Just so I have 21 your testimony correct. You are saying you based 22 yours on part on page seventy, the yellow 23 spools? 24 A. Uh-huh.</p>	<p>1 copied you? 2 A. Yes. 3 Q. You think she saw yours first? 4 A. Yes, I do. 5 Q. So are you saying your quilt is 6 original? 7 A. No. My quilt is a courthouse step 8 log cabin block that I drafted on a piece of 9 graph paper when I was taking a rectangles only 10 class and I needed to make something with just 11 rectangles. 12 Q. Did you submit that graph paper to 13 your attorney? 14 A. No. I never kept it. 15 Q. So you never kept any of the 16 sketches? Did you ever make any sketches? 17 A. He has my notes. 18 MS. THOMPSON: I don't think I have 19 seen those. 20 MR. COYLE: Whatever I have gotten 21 has been produced. 22 Q. (By Ms. Thompson) Did you do any 23 trial and error sample blocks like Exhibit 4? 24 A. Probably I did.</p>

28 (Pages 106 to 109)

SANDRA T. TALBOT**July 20, 2006**

<p style="text-align: right;">Page 130</p> <p>1 of commenting on another person's opinion 2 but -- 3 MS. THOMPSON: I'm just going to 4 ask her from a factual stance. That's all 5 I'm going to ask her. Certainly I don't 6 think she needs to look at something in 7 advance in order to know what the truth 8 is. 9 Q. (By Ms. Thompson) Directing your 10 attention to paragraph four. "During the 1990s" 11 Miss Roy writes "I took quilting classes from 12 JoAnn and was a member of the Log Cabin Club. 13 Sandy Talbot was also a member of the Log Cabin 14 club and attended some of the classes taught by 15 JoAnn." 16 Is there anything in there that 17 you dispute? 18 A. No. 19 Q. Paragraph five. 20 "JoAnn taught me and the other 21 students in the class the techniques to make the 22 small log cabin spools and showed the class the 23 "Sew Many Spools" design which she had made 24 using the very small finished logs."</p>	<p style="text-align: right;">Page 132</p> <p>1 these concepts extensively at the last 2 deposition. And what Mrs. Pelletier 3 testified to is that she had shown the 4 class the overall design, meaning the 5 second page of Exhibit 5. We do 6 understand that the title Sew Many Spools 7 was not formally registered until 8 September 17 of 2004. 9 However Ms. Roy understood the 10 design to be the Sew Many Spools design 11 and that's what she is referring to this 12 spool design as. 13 MR. BUCKLEY: So the affidavit says 14 that the document that was given to Ms. 15 Roy was a document that you have 16 identified as Exhibit? 17 MS. THOMPSON: Second page of 18 Exhibit 5. 19 MR. BUCKLEY: So it would be her 20 testimony that at the class she was given 21 that? 22 MS. THOMPSON: No. I cannot speak 23 to Ms. Roy relative to her testimony. All 24 I'm asking is factually does this witness</p>
<p style="text-align: right;">Page 131</p> <p>1 Do you dispute anything in 2 paragraph five? 3 A. She may have showed the class, but 4 I didn't see it. 5 Q. Whether you were there or you heard 6 about it, did you ever receive information that 7 indicated that JoAnn Pelletier showed the class 8 the very small finished logs? 9 A. No. 10 Q. And you never discussed the class 11 or discussed what was learned with your cousin 12 Connie Roy? 13 MR. COYLE: Objection. 14 THE WITNESS: I don't remember. 15 MR. BUCKLEY: Can I ask a question 16 or an objection here. You have here Sew 17 Many Spools design. The Sew Many Spools 18 design was the design you presented to the 19 copyright office in 2004, is that what 20 this is saying? That she gave something 21 that she didn't prepare until 2004 to 22 somebody in 1990? I'm confused as to what 23 you are saying Sew Many Spools. 24 MS. THOMPSON: We talked about</p>	<p style="text-align: right;">Page 133</p> <p>1 agree or dispute what's in paragraph five. 2 Not what your interpretations are of it. 3 Not when Sew Many Spools was assigned as 4 the title of it. I'm simply asking word 5 by word what does she agree with, what 6 does she disagree with. 7 Q. (By Ms. Thompson) Directing your 8 attention to paragraph five, Mrs. Talbot, is 9 there any part of that with which you agree or 10 disagree? 11 A. Well, I never saw her making small 12 log cabin spools and I never saw that paper. 13 MR. COYLE: For the record I object 14 to the last question. 15 Q. (By Ms. Thompson) So it's your 16 testimony that even though Ms. Roy says in 17 paragraph five that she saw the overall log 18 cabin design in the classes, the Log Cabin Club 19 classes that she attended, that in fact you 20 didn't, you weren't there? 21 MR. COYLE: Objection to 22 characterization. That isn't exactly what 23 paragraph six says. I think we 24 established that we don't actually know</p>

34 (Pages 130 to 133)

CATUOGNO COURT REPORTING SERVICES**Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI**

SANDRA T. TALBOT**July 20, 2006**

Page 134

1 what paragraph six says.
 2 MS. THOMPSON: We are looking at
 3 paragraph five.
 4 MR. COYLE: I'm sorry. Paragraph
 5 five. Because as we sit here today my
 6 understanding is we don't know what Ms.
 7 Roy meant when she said Sew Many Spools.
 8 MS. THOMPSON: That is true. I
 9 can't speak for what was in Ms. Roy's
 10 mind.
 11 Q. (By Ms. Thompson) Directing your
 12 attention to paragraph six.
 13 "Sometime after teaching the class
 14 to making the Sew Many Spools design." Assuming
 15 for the purposes of this question that it is the
 16 overall compilation of the Sew Many Spools
 17 arrangement that is Exhibit 2, "Sandy" meaning
 18 Mrs. Talbot, "displayed her quilt top which she
 19 had made to look like JoAnn's. There is no
 20 doubt in my mind that JoAnn's spool design was
 21 made before Sandy's."
 22 Do you agree, disagree, what do you
 23 agree with or disagree with Mrs. Talbot?
 24 A. I did not make my quilt design to

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1 look like hers because I had not seen hers
 2 before.
 3 Q. Is it fair to say you had seen
 4 parts of the overall design that Mrs. Pelletier
 5 created?
 6 MR. COYLE: Objection.
 7 THE WITNESS: The two papers.
 8 Yes. Just those two papers.
 9 MR. COYLE: There is a couple of
 10 two paper documents. I want to make sure
 11 you identify by exhibit number.
 12 THE WITNESS: Seven.
 13 Q. (By Ms. Thompson) And in addition
 14 to those two papers you had seen the blocks
 15 that are log cabin blocks made to look like
 16 spools?
 17 A. I saw those blocks. Six inch
 18 blocks.
 19 Q. You are pointing to a design, a
 20 sketch on page two of seven and you are saying I
 21 saw those designs, meaning the block of four
 22 that are on the second page?
 23 A. Right. I think they were sewn
 24 together, but I can't be sure about that. But I

Page 136

1 think she did have them sewn together in the
 2 bigger blocks.
 3 Q. So you think she had sewn together
 4 four blocks?
 5 A. Yes.
 6 Q. So you did see those and you did
 7 have the documents that are Exhibit 7?
 8 A. I did.
 9 Q. So do you have any reason to
 10 believe that Ms. Roy is not telling the truth in
 11 this affidavit?
 12 MR. COYLE: Objection.
 13 THE WITNESS: I don't know why she
 14 would say that. She knew I made the quilt
 15 for Joanne Parisi's class. She knew why I
 16 made the quilt, where I made it, when I
 17 made it and why I made it. I didn't make
 18 it to look like any of this.
 19 Q. (By Ms. Thompson) Did you have any
 20 discussion with Ms. Roy relative to the making
 21 of your spool quilt?
 22 A. I don't remember if I did or not.
 23 Q. So why do you think she knew you
 24 made the quilt?

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1 A. She knew I was in Joanne Parisi's
 2 class. We had to do a rectangle quilt. I think
 3 I might have said I'm doing a rectangle
 4 courthouse step.
 5 Q. When is the last time you spoke to
 6 Ms. Parisi?
 7 A. It's been quite a few months.
 8 Q. So time in '06?
 9 A. Probably yes.
 10 Q. And you are saying you made Exhibit
 11 3 in the class taught by Ms. Parisi?
 12 A. Yes, I did.
 13 Q. Physically made it right there in
 14 that class?
 15 A. No. We had a class once a month.
 16 She gave you an assignment. You went home and
 17 you made the quilt.
 18 Q. In what year?
 19 A. Mid-nineties. Probably '95, '96.
 20 Q. Where could I find Ms. Parisi
 21 today? Is she in the West Springfield area?
 22 A. No. She lives in Springfield.
 23 Q. Do you know the address?
 24 A. No.

35 (Pages 134 to 137)

CATUOGNO COURT REPORTING SERVICES**Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI**

SANDRA T. TALBOT**July 20, 2006**

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1 Q. Do you know the phone number?
2 A. I don't.
3 Q. Going back to Ms. Roy's affidavit,
4 paragraph seven. "Sandy" meaning Mrs. Talbot,
5 "told JoAnn" meaning Mrs. Pelletier, "that she
6 was considering sending the design to a
7 publisher, but JoAnn told her she could not do
8 that."

9 Is that an accurate statement?

10 MR. COYLE: Objection.

11 THE WITNESS: It's not. No. I
12 had received the letter from Chitra right
13 after the quilt show in 2000, and my
14 daughter was getting married in June of
15 2001 and I spent the entire year 2000
16 planning for a very, very large wedding.
17 And I never even thought about this
18 letter. I didn't even think twice. I
19 never -- it was the last thing on my
20 mind. I had cakes and caterers and all
21 sorts of things to worry about.

22 And they kept sending letters and
23 sending letters and I kept sticking them
24 over on the side.

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1 Q. (By Ms. Thompson) So you are
2 saying you never told Mrs. Pelletier that you
3 were considering sending your design to a
4 publisher?

5 A. I said I had no intention at that
6 time. I remember saying I haven't even thought
7 about it. All I have been doing is working on
8 the wedding.

9 Q. Did you have a discussion with Mrs.
10 Pelletier relative to sending your design,
11 meaning Exhibit 3, to a publisher at any time?

12 A. I'm not sure. I don't
13 specifically remember.

14 Q. You don't know if you ever talked
15 about it?

16 A. I said that I had received the
17 letter. I said that in the Log Cabin Club.

18 Q. You told Mrs. Pelletier that?

19 A. I did.

20 Q. What did she say to you about that?

21 A. She said the gal from Enfield
22 wasn't going to send her quilt.

23 Q. So you told her that you were
24 considering sending --

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1 A. I didn't say I was considering
2 sending it. I just said I received a letter.

3 Q. Did you tell her what the letter
4 was about? Which quilt it was about?

5 A. She knew what the letter was about.
6 Three people had gotten a letter from Chitra.

7 Q. After this quilt show?

8 A. Yes. The lady in Enfield and my
9 friend Jan and myself.

10 Q. Did you tell Mrs. Pelletier which
11 quilt you were referring to?

12 A. I guess I must have, yes.

13 Q. And she had no response to you
14 about that?

15 MR. COYLE: Objection.

16 THE WITNESS: Well, she was
17 reading little blurbs about copyright
18 infringement to us. And my understanding
19 of why she was doing that is because she
20 had taken other people's patterns and was
21 teaching them in class. I thought she was
22 worried about being sued.

23 And the one thing she would say to
24 me was don't ever use my name in

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1 conjunction with one of her patterns.

2 Q. (By Ms. Thompson) So the second
3 sentence of paragraph seven.

4 "I also remember JoAnn handing out
5 and reading material to the class regarding
6 copyright laws and how they pertained to her
7 quilting classes."

8 Is that an accurate statement?

9 A. It is.

10 Q. "Sandy was in the class when the
11 copyright discussion occurred."

12 Is that an accurate statement?

13 A. That was, yes. I don't know how
14 many times she discussed it but I was there for
15 some of them, yes.

16 Q. And you think that she was telling
17 you about the copyright law because she was
18 afraid of being sued?

19 A. Yes.

20 Q. Why would she be telling the
21 class if she was afraid?

22 A. Because she had taken other
23 people's patterns right out of the book or
24 magazine or whatever and copied them, handed

36 (Pages 138 to 141)

CATUOGNO COURT REPORTING SERVICES**Springfield, MA Worcester, MA Boston, MA Lawrence, MA Providence, RI**

SANDRA T. TALBOT
July 20, 2006

<p style="text-align: right;">Page 258</p> <p>1 I, TACY A. MALANDRINOS, a Notary Public in 2 and for the Commonwealth of Massachusetts, do 3 hereby certify that SANDRA T. TALBOT appeared 4 before me and satisfactorily identified herself 5 on July 20, 2006 at the offices of DOHERTY, 6 WALLACE, PILLSBURY and MURPHY, P.C., 1414 Main 7 Street, 19th Floor, Springfield, Massachusetts, 8 and was by me duly sworn to testify to the truth 9 and nothing but the truth as to her knowledge 10 touching and concerning the matters in 11 controversy in this cause; that she was 12 thereupon examined upon her oath and said 13 examination reduced to writing by me; and that 14 the statement is a true record of the testimony 15 given by the witness, to the best of my 16 knowledge and ability. 17 I further certify that I am not a relative 18 or employee of counsel/attorney for any of the 19 parties, nor a relative or employee of such 20 parties, nor am I financially interested in the 21 outcome of the action. 22 WITNESS MY HAND this 7th day of August, 2006. 23 Tacy A. Malandrinos My Commission expires: 24 Notary Public May 24, 2013</p> <p style="text-align: right;">Page 259</p> <p>1 Today's Date: August 7, 2006 2 To: Steven M. Coyle, Esq. 3 Copied to: Attorneys Thompson and Buckley 4 From: Tacy Malandrinos 5 Deposition of: SANDRA T. TALBOT 6 Taken: July 20, 2006 7 Action: JOANN PELLETIER 8 v. SANDRA T. TALBOT, CHITRA 9 PUBLICATIONS, et al. <hr/> 10 11 Enclosed is a copy of the deposition of 12 SANDRA T. TALBOT. Pursuant to the Rules of 13 Civil Procedure, Mrs. Talbot has thirty days to 14 sign the deposition from today's date. 15 Please have Mrs. Talbot sign the 16 enclosed signature page. If there are any 17 errors, please have her mark the page, line and 18 error on the enclosed correction sheet. She 19 should not mark the transcript itself. The 20 certification and addendum should be forwarded 21 to all interested parties. 22 Thank you for your cooperation in this 23 matter. 24</p>	<p style="text-align: right;">Page 260</p> <p>1 THE UNITED STATES DISTRICT COURT 2 DISTRICT OF MASSACHUSETTS 3 WESTERN DIVISION 3:05-CV-30109-MAP 4 5 ***** 6 JOANN PELLETIER, * 7 Plaintiff * 8 V. * 9 SANDRA T. TALBOT, CHITRA * 10 PUBLICATIONS, CHARIOT PUBLISHING, * 11 INC. As General Partner of Chitra * 12 Publications, CHRISTIANE MEUNIER, * 13 As Officer of Chariot * 14 Publishing, Inc., CHRISTIANE * 15 MEUNIER, As Owner of Chitra * 16 Publications, and CHRISTIANE * 17 MEUNIER d/b/a MOON OVER MOUNTAIN, * 18 Defendants * 19 ***** 20 21 I, SANDRA T. TALBOT, do hereby certify, 22 under the pains and penalties of perjury, that 23 the foregoing testimony is true and accurate, to 24 the best of my knowledge and belief. 25 WITNESS MY HAND, this day of , 26 2006. 27 28 _____ 29 SANDRA T. TALBOT</p> <p style="text-align: right;">Page 261</p> <p>1 CORRECTION SHEET 2 DEPONENT: SANDRA T. TALBOT 3 CASE: JOANN PELLETIER V. SANDRA T. TALBOT, 4 CHITRA PUBLICATIONS, et al 5 DATE TAKEN: July 20, 2006 6 ***** 7 PAGE / LINE / CHANGE OR CORRECTION AND REASON 8 ***** 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____</p>
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66 (Pages 258 to 261)

Exhibit C

6/21/2006

Jo Ann Pelletier

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----)
JO ANN PELLETIER)
Plaintiff(s),)
VS) Civil Action No.
) 05-30109-MAP
CHITRA PUBLICATIONS and)
SANDRA T. TALBOT)
Defendant(s).)
-----)

DEPOSITION of: JO ANN PELLETIER
DATE: June 21, 2006
HELD AT: CANTOR COLBURN
55 Griffin Street
Bloomfield, Connecticut

Reporter: JENNY C. EBNER, RPR, LSR 00030.
BRANDON SMITH REPORTING SERVICES, LLC
44 Capitol Avenue
Hartford, CT. 06106
(860) 549-1850

Brandon Smith Reporting Service
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(860) 549-1850 (203) 316-8591
(800) 852-4589 (800) 852-4589

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Jo Ann Pelletier

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1 MR. COYLE: I am going to switch
2 gears so let's take a 10-minute break
3 and we will come back and resume.
4
5 (Whereupon, a recess was taken from
6 10:36 o'clock a.m. until 10:45 o'clock
7 a.m.)
8
9 BY MR. COYLE:
10 Q Ms. Pelletier, at some point in time did
11 you apply to the United States Copyright Office
12 for copyright registration on either a quilt
13 design and/or a quilt pattern that you maintain
14 you have created?
15 A Yes.
16 Q Okay. How many times in your life or
17 your career in quilting have you applied to the
18 United States Copyright Office for a copyright
19 registration?
20 A I applied -- there was two tote bags
21 that I have copyrights for, and there are some
22 toy animals that -- that I actually sent in for
23 the registration, and several dolls.
24 Q Okay.
25 A And some toys. But there is others that

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1 I have made, just I never actually sent in for
2 the registration.
3 Q Okay. The dolls that you just
4 referenced that you sent in, did you actually get
5 a certificate of registration for those?
6 A Yes.
7 Q Okay.
8 A And the tote bags.
9 Q Other than the tote bags and dolls or
10 toys you just mentioned, other than with respect
11 to, obviously, the quilt and pattern that are at
12 issue in this case, is there anything else you
13 applied for copyright protection for from the
14 United States Copyright Office?
15 A No.
16 Q So the only quilt design and/or quilt
17 pattern which you have sought a registered
18 copyright registration is the one at issue in
19 this case?
20 A Yes.
21 Q All right. I am going to show you,
22 Ma'am, what we have marked as Exhibit 2, and I
23 will represent to you this bears Bates numbers
24 PEL001 through PEL002?
25

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1 (Pelletier Exhibit 2:
2 Marked for identification.)
3
4 BY MR. COYLE:
5 Q I ask if you recognize that document?
6 A Yes.
7 Q What do you understand that document to
8 be?
9 A That document is where I sent,
10 officially sent in my -- sent in to register my
11 copyright on something, a quilt that I had
12 designed in 1993.
13 Q Okay. And is it fair to say that you
14 applied for this copyright registration on
15 September 17, 2004?
16 A That's when they received it.
17 Q Okay. In connection with your
18 application for a copyright registration did you
19 also submit some materials to the copyright
20 office?
21 A Yes.
22 Q Do you recall what you submitted?
23 A A pattern in a plastic envelope. It was
24 the pattern and instructions with a picture on
25 the front.

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1 And I also enclosed some additional
2 papers that I had when I -- that I used when I
3 was teaching, teaching in my quilt quilting
4 classes. I included them in with the package.
5 Q You said pattern and instructions as
6 well as a picture; what was the picture of?
7 A My spool quilt.
8 Q Okay. The one that you call Sew Many
9 Spools?
10 A Correct.
11 Q That is So Many Spools?
12 MR. COYLE: Let's mark that as the
13 next exhibit.
14
15 (Pelletier Exhibit 3:
16 Marked for identification.)
17
18 BY MR. COYLE:
19 Q I am going to show you what we've marked
20 as Exhibit 3, which is a letter from one of your
21 attorneys, Debra Basile, to me, dated December
22 10, 2004, with a series of attachments to it.
23 And I ask if you ever seen that before?
24 A Yes.
25 Q Okay. You are cc'd on this letter.

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1 spools, and that's what the connection was with
2 this.

3 My spool was something I was making, my
4 spool quilt, what I was making for myself that I
5 shared with my class as like an extra extra
6 bonus.

7 Q Okay. I guess my question, though, was:
8 Was it -- put aside the reasons why.

9 A Okay.

10 Q Was it specifically for purposes of
11 providing this document, TAL00011, to the
12 copyright office that you deleted the reference
13 to Ms. Kime?

14 A I am not sure how to answer that,
15 because --

16 Q In other words --

17 A That reference had nothing to do with
18 what I was copyrighting.

19 Q I understand that. I guess what I am
20 asking is: Prior to when you prepared this
21 document, TAL00011, to be filed with the
22 copyright office, had you ever deleted the
23 reference to Ms. Kime before?

24 A I don't think so.

25 Q Okay. So it was only when you were

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1 getting ready to file this piece of paper with
2 the copyright office that you deleted that
3 reference to Ms. Kime. Correct?

4 A I hadn't taught with this particular
5 paper.

6 Q Ma'am, I appreciate there may be a
7 variety of reasons for this. I am just asking
8 you if it was --

9 A That's hard.

10 Q Whatever the reasons it was when you
11 brought this piece of paper out for purposes of
12 sending it to the copyright office that you first
13 deleted the reference to Ms. Kime. Correct?

14 MS. THOMPSON: If you can answer it,
15 go ahead.

16 THE WITNESS: I can't give you an
17 absolute yes on that, because it may
18 have been that it might have been
19 deleted earlier.

20 It would have been when I was
21 teaching the spool classes and it was
22 going to be with the pinwheel, yes, it
23 was still on there.

24 Yes, I guess it would be when it
25 went into Washington, because then this

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1 paper had no connection with what my
2 class lesson was that day.

3 BY MR. COYLE:

4 Q When you say "Washington," you mean --

5 A Copyright, yes.

6 MR. BUCKLEY: Mark that, please.

7 BY MR. COYLE:

8 Q Okay. Let's look at the next page of
9 the packet you sent to Washington D.C.. What is
10 this page?

11 A This is when I was preparing for my
12 class in January of -- January 21st of 1993, in
13 my preparation when I had made the small Log
14 Cabin -- I mean the small Court House Step spool,
15 and I thought, Wow, that is really great. Then I
16 started to -- I said that I am going to make a
17 quilt of my own like that.

18 And this is the paper that I had drawn
19 of what I was going to make, of what I was
20 making.

21 I had started making blocks for my quilt
22 design in January 1993, and when I went into
23 class I had this (indicating) paper with me in my
24 class.

25 Q Okay. How many -- how many blocks for

Page 93

1 this quilt design had you made by January 21st,
2 1993?

3 A As of January, 1993 I had 10 blocks made
4 for my quilt design, for my Sew Many Spools. It
5 did not have the name "Sew Many Spools" until I
6 sent it into Washington, but should I refer to it
7 as Sew Many Spools if I am referring to --

8 Q That is fine. We will know what you are
9 talking about.

10 A Okay. All right.

11 MR. BUCKLEY: Mark that as well.

12 BY MR. COYLE:

13 Q You said you had 10 blocks made. Were
14 they assembled in any way to each other or were
15 they blocks much like we see on the table here, a
16 series of --

17 A At that time they were not assembled
18 together. They were individual blocks.

19 Q Did you show any of those blocks to the
20 class on January 21st, 1993?

21 A Yes.

22 Q Incidentally, would the blocks you
23 showed your class on January 21, 1993 basically
24 look like what we have marked as Exhibit 9?

25 A They are the ones in my quilt. So Many

24 (Pages 90 to 93)

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1 A I have the notation the same time I
 2 added the red border. I evidently didn't have
 3 time. I had a heavy teaching schedule and did
 4 things as I could.
 5 Q Okay. The final quilt top, as it
 6 appears in Exhibit 6, which was what was sent to
 7 the copyright office --
 8 A Correct.
 9 Q -- was completed on January 27, 1998?
 10 A Yes. I want to be sure. That looks
 11 like a one or --
 12 Q Let me give you something that might
 13 help with that.
 14 A One or seven.
 15 Q Let me show you what I have marked as
 16 Exhibit 14.
 17 A See, I said -- was that a one or seven?
 18 See? I just said that to you. It was a seven.
 19 Q Okay. Hold on. Let me --
 20 A Okay.
 21 Q We will clear this up. I have just
 22 shown you what is marked as Exhibit 14. Again,
 23 these are handwritten notes; those are your
 24 handwriting?
 25 A (Nodding head.)

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1 Q Again, so the record is clear, no Bates
 2 number on this because this was something you
 3 just brought today. Do I understand correctly
 4 that this represents a note that you had, at
 5 least for some period of time, kept pinned to the
 6 quilt that you were working on?
 7 A The yellow one was -- yes, this wasn't
 8 pinned to anything.
 9 Q I am just talking about Exhibit 14, and
 10 again, for the record --
 11 A Yes.
 12 Q -- because it's not the original. When
 13 you say "yellow" that won't be clear.
 14 A Okay. Yes.
 15 Q To be clear, Exhibit 14, for some period
 16 of time, was pinned to the quilt as you were
 17 working on it?
 18 A Yes.
 19 Q Okay. Does that indicate the date at
 20 the top that it was completely finished including
 21 the borders?
 22 A Yes.
 23 Q What was that date?
 24 A July 27, 1998.
 25 Q So earlier when you said January 27,

Page 136

1 1998, that was because you were struggling to
 2 read?
 3 A Whether it was a one or --
 4 Q Now you are certain this was finished on
 5 July the 27th, 1998?
 6 A That's --
 7 Q At the top at least?
 8 A Yes.
 9 Q Also, on Exhibit 14 you see where it
 10 says 9/11/2004, false binding for pictures?
 11 A Yes.
 12 Q That's a reference to the false binding
 13 that you testified to earlier today that you did
 14 for purposes of photographing the quilt or quilt
 15 top and sending pictures to the copyright office?
 16 A Yes.
 17 Q Up at the top left of Exhibit 14 you see
 18 there is an entry dated October 2, 2004?
 19 A Yes.
 20 Q I am sorry, what is that entry
 21 representing?
 22 A It says, "Slightly T-dyed, layered and
 23 basted."
 24 Q Okay. I am going to show you Exhibit
 25 15, which, once again, is a handwritten series of

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1 notes; is that your handwriting?
 2 A Yes.
 3 Q Okay. Again, there is no Bates number
 4 because this was something that you brought
 5 today.
 6 Would you agree that this is a
 7 handwritten note that you have currently pinned
 8 to the back of the quilt which is Exhibit 12?
 9 A Yes.
 10 Q And does this note indicate the date
 11 that the entire quilt was completed?
 12 A It was machine quilted, and the binding
 13 put on, and it was complete as of the 14th of
 14 October, 2004.
 15 Q All right. Earlier today we were going
 16 over some of the materials that you showed to
 17 your class on January 21st, 1993?
 18 A Uh-huh.
 19 Q Other than what has been either labeled
 20 as exhibits or otherwise discussed here today, is
 21 there anything else related to either the pattern
 22 that you are now claiming copyright protection
 23 for or design that you are now claiming copyright
 24 protection for that you showed to your class
 25 January 21st, 1993?

35 (Pages 134 to 137)

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Jo Ann Pelletier

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1 at the same time.
2 BY MR. COYLE:
3 Q Okay. So, other than what you have told
4 us already, what, if anything, else did you and
5 Sandy discuss on this particular class where
6 Sandy showed a quilt that you felt looked like
7 yours?
8 A I didn't go into any bigger discussion.
9 It was where I confronted her on it and said --
10 she said that she didn't do it in my class, and I
11 said, "But you learned it from me."
12 We don't do any sewing in the class. I
13 am the only one that demonstrates. They go home
14 and do their own sewing. I was surprised. I
15 didn't know she had made one. I had no
16 indication she was making one.
17 Q Did she say anything that day about when
18 she had made it?
19 A No.
20 MR. COYLE: Claire, to maybe speed
21 this along so I don't have to hash out
22 too much stuff with Ms. Pelletier, does
23 Connie Roy have a recollection as to the
24 date of this class?
25 MS. THOMPSON: No. She is one of

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1 the individuals I listed in our --
2 MR. COYLE: That is fine.
3 BY MR. COYLE:
4 Q Ms. Pelletier, after this class where
5 Ms. Talbot showed her quilt top that you felt
6 looked like your quilt design, did you ever have
7 subsequent conversations with her about her quilt
8 top?
9 A Yes.
10 Q Okay. When was the next discussion?
11 A Next discussion on that would have been
12 March of 2000. She called me one day, and there
13 was a quilt guild that we belonged to that was
14 having a quilt show, and she said she was going
15 to put that quilt into the Pioneer Valley
16 Quilters quilt show.
17 Q The quilt that looked a little bit like
18 your quilt?
19 MS. THOMPSON: Objection to the
20 form.
21 THE WITNESS: Yes.
22 BY MR. COYLE:
23 Q I will reask the question. The quilt
24 you believe looked like your quilt?
25 A Yes. She called me up, and she said

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1 that she was going to -- she was just tying the
2 quilt, and my assumption was she was tying it
3 where the cornerstones were, but she said it
4 wasn't coming out right because when she -- when
5 it was going to hang up it was going to all sag.
6 I said to her, yes, that is because it
7 needs to have something more than just -- it's
8 all right if it's on a bed, but if it's hanging
9 in quilt show it's going to have to have
10 something to hold it together.
11 She said, "Oh," she says, "I don't
12 machine quilt," and was talking about herself,
13 she didn't machine quilt. And she asked me if I
14 would machine quilt it for her. I told her no.
15 Then she said -- well, the conversation
16 got around to her saying that well, she didn't
17 know how to quilt it. I told her to quilt it on
18 the outside of the sashing, and go this way
19 (indicating) top and bottom of the sashing, and
20 this way (indicating) top and bottom, and the
21 whole quilt would hold.
22 Q For the record you are saying "this way"
23 and "this way" vertical and horizontal?
24 A Vertical and horizontal, outside of the
25 stitching where the sashing and spools are sewn

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1 together from top to bottom or from, you know,
2 east to west.
3 Then I said that would be enough,
4 because the spools would then stand out.
5 So she said, "Well, I will give it a
6 try." Then I heard no more about it.
7 Q Okay. All right. Just if you go
8 to Exhibit 16, which is your interrogatory
9 answers, and go to page 3, and at the bottom
10 there is a reference to -- do you see -- in big
11 capital letters it says -- I guess it's supposed
12 to say "quilting," I guess. It's looks like a
13 nine missing there.
14 But you see there is a reference to
15 "Talbot called me before the 2000 quilt show?"
16 Do you see that?
17 A It was tied with buttons. I had
18 forgotten that until I read this.
19 Q I want to confirm this portion of this
20 interrogatory answer at the bottom of page 3 is a
21 reference to the same conversation with
22 Ms. Talbot that you were testifying to; is that
23 correct?
24 A Yes.
25 Q Why did you refuse to machine quilt it

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Jo Ann Pelletier

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1 for her?

2 A I didn't have time.

3 Q Okay.

4 A I don't have my own stuff done.

5 Q Okay. When is the next time, if there

6 was a next time, that you discussed the issue of

7 Ms. Talbot's quilt that you felt looked similar

8 to your quilt?

9 A After the quilt show. And I don't know

10 exactly -- I had gone to the quilt show and saw

11 the quilt in the quilt show. And then after --

12 sometime after the quilt show she called me, and

13 she was all excited because the magazine Chitra

14 sent her a letter that they wanted to put her

15 quilt in the magazine.

16 Q Okay.

17 A She told me that. I said to her -- I

18 confronted her then over the phone and said to

19 her, "Sandy, you did not give any credit to me in

20 the quilt program."

21 And she said -- I don't remember --

22 well, she didn't give any credit to me, and I

23 said to her -- I said, "It's not yours to give

24 away," because I said -- you know, during our

25 conversation it was -- well, I was familiar with

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1 the magazine, because I subscribe to it, and I

2 said that they want your -- they probably want it

3 to make a pattern for their magazine, and I told

4 her no.

5 Q Okay. Just going back for a second to

6 the conversation that you had with Ms. Talbot

7 leading up to that 2000 quilt show --

8 A Uh-huh.

9 Q -- is there anything else that you and

10 she discussed on that occasion, other than what

11 is in your interrogatory answer or what you have

12 told us about here today?

13 A About her quilt?

14 Q Anything related to her quilt at all.

15 MS. THOMPSON: She probably would

16 have to read the whole set of

17 interrogatories, Steven, in order to

18 answer that accurately.

19 MR. COYLE: She can read whatever

20 she wants. I will note that I think

21 that in these interrogatories the

22 subject of that particular conversation

23 is limited to the very bottom of page 3,

24 to very top of page 4, although, again,

25 I would encourage her to read as much as

Page 176

1 she would like to read here.

2 THE WITNESS: She called about what

3 she could do about it not looking good,

4 and would I quilt it for her. And she

5 didn't know how to quilt it. And I told

6 her even how to quilt it.

7 That's basically what our

8 conversation consisted of.

9 BY MR. COYLE:

10 Q Other than what you testified here

11 today, and what is in this interrogatory answer,

12 that's it to the best of your recollection?

13 A That's all.

14 Q Everything that was discussed during

15 that conversation?

16 A That's all I remember.

17 Q Okay. Coming back now to the discussion

18 following the quilt show where she had -- she had

19 been approached by Chitra Publications you just

20 relayed to us what your feelings were about that.

21 Was there anything else discussed during that

22 conversation other than what you just told us?

23 A About that quilt, about her quilt that

24 she had made?

25 Q Yes.

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1 A I told her it was not hers, it was my

2 design, and I'd taught it to her. And she said

3 to me, "It's just a Court House Step."

4 I said, "It's more than that Court House

5 Step. It's what you put with the Court House

6 Step to make the appearance of the quilt, how

7 it's going to look."

8 She kept saying, "It's just a Court

9 House Step."

10 I said -- that was basically -- that was

11 basically our discussion. I told her -- you

12 know, we argued about it.

13 Q How long did that conversation last?

14 A I don't know. It could have lasted 15

15 or 20 minutes, something like that.

16 Q Okay. That's just a guess, though? I

17 mean, it's fine if you don't remember.

18 A We had several conversations over -- in

19 the next month or two. Well, actually, now, this

20 might have been April and May. We didn't discuss

21 it anymore after that until September.

22 I would say to her -- so it could have

23 lasted more than 15 or 20 minutes. I don't know

24 which conversation, because I said to her -- I

25 can actually kind -- I will combine whatever our

45 (Pages 174 to 177)

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1 any of that with the patterns for the quilt that
2 was Exhibit 12?

3 A There were a few other things, too, that
4 are my own, and yes.

5 Q Well, I just want to be clear here. I
6 am talking specifically about the pattern which
7 is Exhibit 12?

8 A It would have been part of -- if I did a
9 book, it would have been part of a book.

10 (Pause.)

11 Q Let me ask you -- Ms. Pelletier, I am
12 going to ask you a very specific question.

13 A Okay.

14 Q Specific question is: Did you have any
15 specific plans to in any way market, in any way,
16 at all?

17 A At some point I was going to market -- I
18 am sorry.

19 Q That's okay. Apologize. The pattern
20 for your quilt which we have identified as
21 Exhibit 12?

22 A Are you asking me as of a certain time
23 or -- it was my intent at some time with things
24 that were my techniques of how to make or my
25 designs that I would do something with them at

1 quantify any economic injuries that you have
2 sustained as a result of any acts committed by
3 Ms. Talbot?

4 A I haven't thought about that.

5 Q That would be a no?

6 A No, I haven't thought about it. Except
7 for the fact she took the edge off of it being my
8 original design, being given -- being available
9 to the world.

10 Q Okay. Have you had conversations with
11 anyone other than your lawyers about this lawsuit
12 and the issues implicated by this lawsuit?

13 A Anybody that I have spoken to at all?

14 Q Yes. I will exclude your husband.

15 A I haven't talked very much to him about
16 it at all. He hasn't known a whole lot about it
17 because I knew --

18 Q Your conversations with him actually are
19 privileged.

20 A -- I knew if I was saying something to
21 him he would be upset that I was having to go
22 through this. I figured it was better to not say
23 anything to him.

24 Q Okay.

25 A There are a few people. Connie Roy

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1 some point.

2 Q At any time prior to when Chitra
3 Publications issued a magazine that contained
4 photographs and other information about the quilt
5 that Ms. Talbot made, had you formulated a
6 specific plan to market the pattern for the quilt
7 that is Exhibit 12?

8 A I don't know when it was that I did it.

9 Q To this day, have you ever formulated
10 any specific plan to market that pattern?

11 A No. I have been very disillusioned
12 right now. Doesn't mean I won't, though.

13 Q Okay.

14 A I have had sicknesses since that
15 magazine came out in '03, too. I had bleeding
16 ulcers and was put in the hospital for four days.

17 Q Okay. Is there any other economic
18 injury that you allege to have sustained as a
19 result of any acts that you claim Ms. Talbot
20 committed that are wrongful?

21 A No.

22 Q Okay.

23 A But she willfully did it.

24 Q As you sit here today, have you
25 undertaken in any way at all to calculate or

1 knows what was going on during the whole thing.
2 She knows what was going on during 2002 from, you
3 know, April, May and through September, you
4 know -- I am sorry, 2000. Not 2002.

5 Q All right. Is Connie Roy a friend of
6 yours?

7 A She was in my classes.

8 Q Was she a friend of yours?

9 A Yes, she is a friend. She is Sandy's
10 cousin, and we were friends. We would see each
11 other at the quilt shops, and they were in my
12 class and that type of friend, and that type of
13 thing.

14 Q Anyone other than Connie?

15 A Two other women. I mean that I told
16 that I was starting this lawsuit or something?

17 Q And that you discussed any of the issues
18 in this lawsuit.

19 A Okay. It was Kay Mehan and another
20 woman in the group. She is a friend, Gloria. I
21 told them that --

22 Q What is her last name?

23 A Gloria Marchetto, M-a-r-c-h-e-t-t-o.

24 Q Where is she residing?

25 A West Springfield, Mass. I told them --

53 (Pages 206 to 209)

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1 sampler in the book, when I flipped through it.
2 Q When you were given -- when Ms. Talbot's
3 attorney gave your attorney information, when you
4 did your discovery, he gave a copy of that book
5 to her. He did a photocopy of the book. Is it
6 your testimony your attorney did not give you a
7 copy of that book at that time?
8 A I don't remember ever seeing it. I
9 don't remember if it was in the packet.
10 Q On number 7 you have a chart there?
11 A Yes. Right here (indicating).
12 Q Okay.
13 A Uh-huh.
14 Q From where did you derive these -- where
15 was your idea for these size of blocks?
16 A I was teaching a totebag class, and the
17 top one -- well, you can see the
18 six-and-a-half-inch finish block? Two of those
19 sewn together would make a 12-inch block. So
20 people could take four, six-and-a-half-inch
21 blocks, and you sew them together to make a
22 block, and you make a 12-inch one, and alternate
23 them in the quilt.
24 I kept some things so they would work
25 together.

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1 I was teaching a totebag class, and I
2 wanted a pocket that size to go on to my totebag,
3 and I made the 13-inch size. It's never been --
4 you know, when I teach the totebag classes, I
5 would --
6 Q What is the size of your center square
7 on that one?
8 A Size of the center square was cut
9 seven-and-a-half-inches square.
10 Q That was the one you did on the totebag?
11 A Totebag isn't totally finished. It
12 had -- I taught -- I taught the totebag classes
13 at several different workshops and didn't always
14 get them finished.
15 Q Can you look at the Kime book for me?
16 A Sure.
17 Q Would you look at page 45 -- excuse
18 me -- 42. I am looking at page 42, and it
19 says -- section says, "Yellow Spools"
20 A Yes.
21 Q I am looking at that drawing, and I am
22 looking at the drawing you prepared on your
23 number 7. Are you looking at those too?
24 A I am looking at the two, and --
25 Q Now, what size was "Yellow Spools to be

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1 cut?
2 A One-inch blocks, one-inch finish. That
3 means one and a half.
4 Q Log width is what?
5 A Let me see -- log width, one inch
6 finished it is saying here, so is this -- wait a
7 minute, now.
8 Q It says how to cut it?
9 A I am trying -- wait a minute.
10 I am looking to see where it's saying
11 how to cut it. Cutting instructions. Okay. The
12 logs, one-and-a-half-inches wide.
13 Q What is the finished block size?
14 A Thirteen.
15 Q Thirteen?
16 A That's what she says.
17 Q What is the unfinished log size?
18 A What is the -- what did you say -- what
19 do you mean?
20 Q Unfinished with the seam allowance?
21 A That would be 13 and a half.
22 Q What is yours here on your chart? What
23 is the block size?
24 A Same thing.
25 Q Same thing. What is the center square

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1 that she says to cut there? What size?
2 A I am looking. Seven-and-a-half-inches
3 square.
4 Q Seven-and-a-half-inches-square and what
5 is yours?
6 A Seven and a half.
7 Q What is her log width?
8 A Cut one and a half.
9 Q What is yours?
10 A One and a half.
11 Q What is the first round size going to
12 be?
13 A Does she say in here? Well, mine says
14 the first round, nine-and-a-half-inches square.
15 I don't know if she has that. That's a technique
16 that I have.
17 Q Would you look at page 70? Would you
18 tell us what that depicts?
19 A I did not see this in this book.
20 Q Okay. Now, I am looking at this quilt,
21 and I am looking at the center block of that wall
22 hanging. Could you describe to us the center
23 block of that wall hanging, the elements of it?
24 A It's spools, and then there is sashing
25 and cornerstones.

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1 Q There is sashing and cornerstones. Are
2 these the same sashings and cornerstones that you
3 have in your drawing?

4 A Not the same ones, because I didn't see
5 this picture.

6 Q Uh-huh. I am asking if they are the
7 same or similar to the ones that you are claiming
8 is your original design?

9 MS. THOMPSON: Objection to the
10 form. If you can answer, go ahead.

11 THE WITNESS: I would say similar.

12 BY MR. BUCKLEY:

13 Q Turn to page 140, if you would, please,
14 in the Kime book.

15 A Okay.

16 Q Page 140, what is Ms. Kime attempting to
17 do in the highlighted areas? What is she
18 breaking down for you?

19 MS. THOMPSON: Objection. She can't
20 know what is in somebody else's mind,
21 but if you can answer, go ahead.

22 THE WITNESS: I don't know what you
23 mean.

24 BY MR. BUCKLEY:

25 Q You are a quilt teacher. You said you

1 quilt, is it not?

2 A Yes.

3 Q It's showing the border, is it not?

4 A Showing the Court House Step; it shows
5 sashing; showing cornerstone showing the log
6 cabin block like part of a border.

7 Q And you said that you only -- you said
8 that you reviewed and looked through a Janet Kime
9 book. As a matter of fact you said the pattern
10 was from Janet Kime Log Cabins. That's is what
11 you wrote here. Correct?

12 MS. THOMPSON: Objection. That's
13 not what she said or not what she wrote.

14 MR. BUCKLEY: I will withdraw that.

15 BY MR. BUCKLEY:

16 Q Question: Did you contact Janet Kime
17 and ask her if you could copy out of her book?

18 A I didn't have her book.

19 Q Ma'am, I believe you testified before
20 you had a copy of Janet Kime's book.

21 A No.

22 Q You reviewed it somewhere?

23 A I didn't have a copy. I was at a
24 quilt -- at a quilt show, and I was looking
25 through it like this (indicating).

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1 were a quilt designer. What aspects is this
2 designer attempting to break down? Based on your
3 understanding of quilting, what is she attempting
4 to show?

5 MS. THOMPSON: Objection. You can
6 answer.

7 THE WITNESS: Well, this must be the
8 way she writes her books where she does
9 part of it, where she is showing the
10 actual quilt, and the other one is kind
11 of just showing drawings.

12 BY MR. BUCKLEY:

13 Q Just showing drawings? Are you stating
14 that you don't know what this means, these
15 highlighted areas?

16 A What do you mean by "highlighted"?

17 Q Highlighted areas. One portion of the
18 quilt is highlighted. There are bold lines drawn
19 around different elements of that quilt.

20 A Do you mean up here, up in the upper
21 left corner?

22 Q Yes. There are highlighted bold lines.

23 A It's showing where the blocks -- it's
24 showing the blocks, their makeup.

25 Q Showing various elements of this figure

1 MS. THOMPSON: Let the record
2 reflect she is looking through the
3 pages.

4 THE WITNESS: Looking through the
5 pages.

6 BY MR. BUCKLEY:

7 Q Ms. Pelletier, isn't it true the two
8 quilt shops where you taught Log Cabin classes
9 sold this book?

10 A I don't know, because I never went by
11 that -- I never went there to buy it. I don't
12 know every book they sell. I don't know.

13 Q Is it your testimony that you, being an
14 expert in quilting classes on Log Cabin quilts
15 and teaching courses, didn't review this book?

16 A I did at a quilt show. I was looking at
17 it. I flipped through it.

18 Q You admit you had access to this book?

19 A Only to flip through the pages. I did
20 not --

21 Q I am going to turn your --

22 A When I am flipping through, I wasn't --

23 Q There is no question.

24 MS. THOMPSON: There is no question.

25 BY MR. BUCKLEY:

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1 Q You have all the exhibits. May I see
 2 the exhibits? Who has the pile of exhibits?
 3 MS. THOMPSON: Exhibits?
 4 THE WITNESS: Put that away.
 5 BY MR. BUCKLEY:
 6 Q Showing you Exhibit Number 10, from
 7 where did you get the idea to turn those?
 8 A From this book.
 9 Q From this book. You got the idea to do
 10 what?
 11 A To have the spools -- it's a colored
 12 section that you look through. If I am at a show
 13 deciding to look -- if I am anywhere, a quilt
 14 show, shop or whatever to buy a book, I don't
 15 like this area, I find the part where the
 16 pictures are, and I go through that. And when I
 17 went through that, I thought, wait a minute.
 18 I saw these spools, and there were four
 19 of them together. And that's what went into my
 20 quilt as the block.
 21 Q What page number?
 22 A Page 68.
 23 Q Would you look at page 67?
 24 MR. COYLE: Can I have the record
 25 reflect we are talking about page 68 of

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1 Exhibit?
 2 MS. THOMPSON: Seventeen.
 3 MR. COYLE: Thank you.
 4 THE WITNESS: This must be the one I
 5 saw.
 6 BY MR. BUCKLEY:
 7 Q Which one is that, Ma'am?
 8 A One on the top of the page. It's got
 9 like four of them rotating around, and they look
 10 like antique blocks.
 11 Q So, you looked at the color pictures.
 12 You say that's the only thing you looked at in
 13 this book?
 14 A Yes.
 15 Q On page 70 there is another color
 16 picture; you looked at that too?
 17 A No. I didn't have it -- wait a minute.
 18 I didn't have it like this (indicating). I had
 19 it like this (indicating), going through,
 20 glancing. I saw the one with the spools there,
 21 and I said that's great. That's the circular
 22 one, because I needed to have a 12-inch block.
 23 Q What inch block is that? Page 42
 24 says -- look at page 42 and it will tell you the
 25 size of the block.

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1 A I didn't know the size of the block. I
 2 didn't look at anything. I just wanted the idea
 3 of that, because I had to go home and write up
 4 what came --
 5 Q Ma'am, let's at page 42.
 6 A Oh, I thought --
 7 Q Is that what it says on page -- it does
 8 say that on page 67?
 9 A Yes.
 10 Q Look at "instructions" on page 42,
 11 correct?
 12 A Yes.
 13 Q And if you turn to page 42,
 14 describing Scrappy Quilt, what size is Scrappy
 15 Quilt?
 16 A Oh.
 17 Q I am sorry. Scrappy spools?
 18 A Scrappy spools is 12 and a half inches
 19 finished. That would have been made it a 13
 20 inch.
 21 Q You said you wanted a 12-inch block?
 22 A Well, when I -- for my quilt, I had to
 23 draft it to a 12-inch block.
 24 Q You said when you looked at this you
 25 wanted it to be a 12-inch block?

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1 A It didn't have to be a 12-inch block. I
 2 was going to go home and draft whatever I needed
 3 to. I write my own patterns.
 4 Q On page 42 what size is that block?
 5 A That's a 12 and a half. That's too big,
 6 but mine isn't -- wait a minute -- what page was
 7 that on? Because my block -- my block is
 8 different.
 9 My block, where I actually sewed the
 10 four blocks together, we have -- I think there is
 11 also an added border on the outside. Not that.
 12 I have got the block with me. I could
 13 show you.
 14 Q I am just asking -- you say you looked
 15 at that block?
 16 A I looked at this design. I looked at
 17 four, antique-looking spools together, and that's
 18 what I saw.
 19 Q Okay. When you -- on this particular
 20 paper, which is Exhibit 7, on Exhibit 7, what
 21 basic pattern are you showing?
 22 A I am showing what I developed. By
 23 rejecting the antique-looking spool, I developed
 24 that one on my own.
 25 Q When you say "that one," is that the one

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1 MR. COYLE: Not the first time for
 2 her, but the first time for purposes of
 3 production to determine whether or
 4 not --
 5 MS. THOMPSON: I don't think it's
 6 the first time for purposes of
 7 production.
 8 MR. COYLE: Well, I guess if there
 9 is a -- if you are doing this to try and
 10 establish for us whether you have or
 11 haven't produced them, I guess my
 12 thought is I am happy to have you guys
 13 go back to your office, you know, over
 14 the next, you know, couple days,
 15 whatever, and figure that out as opposed
 16 to doing that now.
 17 On the other hand, if there is a
 18 particular document in there you intend
 19 to ask the witness questions about --
 20 THE WITNESS: This folder -- you
 21 have other papers in here, but that are
 22 not belonging in this folder.
 23 MS. THOMPSON: That is fine. We
 24 have given this --
 25 THE WITNESS: This folder is where I

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1 wrote out my pattern in Microsoft Word,
 2 and then I drew my pictures and pasted
 3 them on so they could see I pasted them
 4 on, and went to a copy machine.
 5 That's all. Because this folder is
 6 the parts that would go --
 7 MS. THOMPSON: Right.
 8 BY MS. THOMPSON:
 9 Q Is there anything in here that we need
 10 to explain further?
 11 A That's all that.
 12 Q Okay. How about the documents you are
 13 holding in your right hand?
 14 A Had that in here (indicating).
 15 Q I am asking is there anything we haven't
 16 submitted that you need to submit?
 17 A No. This is -- that's the paper when I
 18 taught workshops that they had, and I -- I had
 19 submitted --
 20 MS. THOMPSON: Anybody want to see
 21 this? Okay. Paper sent --
 22 THE WITNESS: I thought that had
 23 been submitted.
 24 MR. BUCKLEY: What do you have
 25 there?

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1 MS. THOMPSON: This (indicating).
 2 THE WITNESS: That's that paper
 3 that -- because this (indicating) is the
 4 file that held what was going to
 5 Washington.
 6 BY MS. THOMPSON:
 7 Q Sew Many Spools cover back -- anything
 8 there that has any relevance?
 9 A That was just to hold the papers that
 10 had the cut and paste things on them.
 11 Q Okay. This is -- I think we --
 12 MR. COYLE: Can I just -- I am just
 13 going to request, not right now, not at
 14 the moment, but subsequent to today --
 15 MS. THOMPSON: Copy of all this?
 16 MR. COYLE: Anything in the purple
 17 file that we are looking at.
 18 MS. THOMPSON: We will put it all
 19 together with everything that has to be
 20 filed.
 21 MR. COYLE: Could I get that on the
 22 record, whatever was in the purple file,
 23 -- if I can just have the floor for
 24 two seconds. So the record is clear, I
 25 know I think Claire is clear on this, I

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1 want the record to be clear.
 2 I am requesting a copy of whatever
 3 is in that purple file titled, I think,
 4 "Sew Many Spools parts."
 5 MS. THOMPSON: Parts.
 6 MR. COYLE: If there is something in
 7 this that's already Bates labeled and
 8 produced, obviously I don't need it
 9 again. Anything other than that I will
 10 take a copy of it.
 11 MS. THOMPSON: You will get it. I
 12 will give you more than one copy, if you
 13 like.
 14 MR. COYLE: One will be fine.
 15 MS. THOMPSON: At this point --
 16 okay. I don't have any further
 17 questions for Jo Ann.
 18 MR. COYLE: Okay. I just have one,
 19 possibly one quick followup.
 20
 21 REDIRECT EXAMINATION
 22
 23 BY MR. COYLE:
 24 Q I just -- for clarification purposes,
 25 Ms. Pelletier, I am going to show you what we

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1 have marked as Exhibit 19. This is what we
2 identified earlier as a photograph of
3 Ms. Talbot's quilt. Do you remember that?
4 A Yes.
5 Q Okay. That's the only item made by
6 Ms. Talbot that you are accusing of copyright
7 infringement. Correct?
8 A Only one I know of that she has made.
9 Q Okay. And the first time you saw, at
10 least the top of that quilt, was in your Log
11 Cabin class at your house sometime in or around
12 1998 or 1990 after Ms. Talbot returned from some
13 brief hiatus from your course?
14 A It wouldn't have been '99, I don't
15 think. Yes, but I saw it. I don't know when she
16 showed it.
17 Q Okay. In any event, it was prior to
18 that March 2000 Pioneer Valley Quilt Show?
19 A Yes.
20 MR. COYLE: I have no further
21 questions.
22
23
24
25

1 Q Supply list part of the pattern you
2 submitted to the copyright office?
3 A Of the commercial pattern that you would
4 refer to.
5 Q It is in the last line of that pattern,
6 and you say "very unique" and you have it and --
7 A Yes.
8 Q -- and that's what you are referring to?
9 A Yes.
10 Q Question two: Ms. Pelletier, when your
11 counsel was talking to you about the various
12 elements of your quilt and your original design,
13 she pointed to a finished product, your quilt,
14 Exhibit number 12, and she asked you about the
15 various elements of it.
16 For clarification, to your belief does
17 it or does it not matter what colors or types of
18 fabrics are used in a quilt which will
19 distinguish that quilt from another quilt based
20 on the design?
21 A Well, I feel that if they used a black
22 background and lighter color spools, it still --
23 I still have designed that design.
24 Q Correct. If they used yellow fabrics,
25 and did it the same layout you did, would you

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1 RE CROSS EXAMINATION
2
3 BY MR. BUCKLEY:
4 Q Ms. Pelletier --
5 MR. COYLE: Just so the record is
6 clear, I have no further questions at
7 this time, subject to what I pointed out
8 earlier about suspending based on
9 additional documentation that may be
10 produced.
11 MR. BUCKLEY: Ditto.
12 BY MR. BUCKLEY:
13 Q Ms. Pelletier, when you were asked by
14 your counsel about calling in and someone saying
15 that your quilt was unique, I believe you said it
16 was Deb Feece, subsequent to that time you
17 decided to put the word "unique" into -- "I put
18 it in my pattern. I wrote "unique" because she
19 said unique." And you were referring to Deb
20 Feece?
21 A Correct.
22 Q When you said your pattern, it's what
23 you placed on the back material, I will call it
24 the supply list?
25 A Yes.

1 think they copied your design?
2 A It was the design and the instructions
3 that I was copyrighted on.
4 Q If they put four blocks together
5 separated by the elements you have in there
6 rather than 97 blocks, that wouldn't matter
7 either, correct, as long as it had the sashing
8 with the corner blocks and the --
9 A No. That still wouldn't give the same
10 appearance as having a bigger number. Four
11 together would be just four little blocks
12 together. No. No.
13 Q Your design is the 96 blocks together?
14 A No. They could do -- if they wanted to
15 make a small wall hanging like that, you know,
16 with four across and five down or something, that
17 would be more -- that would become more apparent
18 that it looked like this (indicating).
19 Q Is there -- So the minimum -- do you
20 have a minimum or maximum that someone would have
21 to do that you would say was a copy of your
22 design or wasn't a copy of your design?
23 A They are small logs. The very small
24 log, little three and three-quarter inch finished
25 block that I have in there. That makes -- if

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JURAT

I, JO ANN PELLETIER do hereby certify that the foregoing testimony given by me on June 21, 2006 is true and accurate, including any corrections noted on the corrections page, to the best of my knowledge and belief.

JO ANN PELLETIER

At _____ in said County of _____, this _____ day of _____, 2006, personally appeared JO ANN PELLETIER, and she made oath to the truth of the foregoing corrections by her subscribed.

Before me, _____ Notary Public.
My Commission expires: _____

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STATE OF CONNECTICUT

I, JENNY C. EBNER, a Registered Professional Reporter/Commissioner within and for the State of Connecticut, do hereby certify that pursuant to Notice I took the deposition of JO ANN PELLETIER, on June 21, 2006, at the offices of CANTOR COLBURN, 55 Griffin Street, Bloomfield, Connecticut.

I further certify that the above named deponent was by me first duly sworn to testify to the truth and nothing but the truth concerning her knowledge in the matter of the case of JO ANN PELLETIER VS CHITRA PUBLICATIONS and SANDRA T. TALBOT, now pending in the United States District Court District of Massachusetts.

I further certify that the within testimony was taken by me stenographically and reduced to typewritten form under my direction by means of COMPUTER ASSISTED TRANSCRIPTION; and I further certify that said deposition is a true record of the testimony given by said witness.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

WITNESS my hand and seal this 5th of July, 2006.

Jenny C. Ebner, R.P.R., L.S.R.
Commissioner

My Commission expires: August 31, 2010
License Registration Number: 00030

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TRANSCRIPT CORRECTIONS
REPORTER: JENNY EBNER
CASE STYLE: JO ANN PELLETIER
VS
CHITRA PUBLICATIONS and SANDRA T. TALBOT

PAGE LINE CORRECTION

JO ANN PELLETIER
DATE: _____

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Jenny C. Ebner
Brandon Smith Reporting Services
44 Capitol Avenue
Hartford, Connecticut 06106
(860) 549-1850

Date July 5, 2006

To CLAIRE THOMPSON

Dear Ms. Thompson:

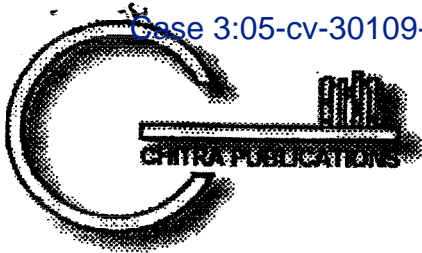
Enclosed please find your copy of the deposition of JO ANN PELLETIER taken on June 21, 2006. The original jurat and errata sheets are also enclosed. Please note that the witness is allowed 30 days to read and sign the deposition as the rules provide.

Please return only the original notarized jurat and errata sheets to Brandon Smith Reporting Services, 44 Capitol Avenue, Hartford, Connecticut 06106 for filing, along with a copy to all counsel present. Thank you for your prompt attention to this matter. If you have any questions, please call me.

Sincerely yours,

Jenny C. Ebner, R.P.R./L.S.R.

Exhibit D



2 Public Avenue • Montrose, PA 18801
Phone: (570) 278-1984 • Fax: (570) 278-2223
chitra@epix.net • WWW.QuiltTownUSA.com
Traditional Quiltworks • Quilting Today • Miniature Quilts

Quilt Questionnaire

Please complete the following questionnaire to the best of your knowledge so Chitra Publications may show and/or publish a pattern for your quilt.

Name SANDRA TOUCHETTE TALBOT
Street Address or Box No. 15 PRYNNWOOD ROAD
City LONGMEADOW State MASS Zip Code 01106
Phone/Fax No. 413-567-5102 E-mail _____

1. Title of quilt: "JUST SPOOLING AROUND"

About your Design:

Patterns for original designs or interpretations of traditional designs may be published. A member of our staff usually writes pattern directions. Interpretations of published designs require permission from the publisher.

2. My quilt is (please check only one):

- a) ☐ my original design
b) ☒ my interpretation of a traditional design called COURTHOUSE STEP LOG CABIN
c) ☐ made using a pattern*
d) ☐ my interpretation of someone else's design*

* If you selected either c or d above, please provide the following information concerning your design source:

Pattern appeared in: ☐ magazine ☐ pattern packet ☐ book

- a) Name of Quilt Designer / Quiltmaker _____
b) Publisher/Year _____
c) Address, if known _____

About your Quilt:

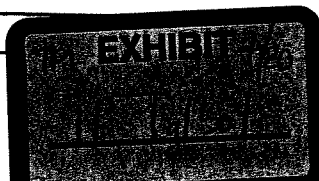
3. Width x Length: APPROX 54" x 54" Finished Block Size: 4"

4. About your quilting design - The quilting design on my quilt is: IN THE DITCH
☐ my original design ☐ made using a commercial pattern/stencil ☐ my interpretation of someone else's design

5. Description of Quilt (colors, techniques, age, etc.): MY QUILT IS BASICALLY A COURTHOUSE STEP LOG CABIN BLOCK WITH 1/4" FINISHED "LOGS". I LOVED MAKING THE "SPOOL" BLOCKS, AND WHAT BEGAN AS A WALL HANGING QUICKLY BECAME A QUILT OF 100 SPOOLS. I CHOSE STRIPES AND PLAIDS FOR THE CENTERS OR "THREAD" PORTION OF THE BLOCK. IT WAS BEAUTIFULLY MACHINE QUILTED BY JANIS AUSTIN GILBERT.

6. Has this quilt been submitted or shown in any other publications? ☐ yes ☒ no

If yes, please list the name(s) and date(s) of the publication(s): _____



Please tell us anything you'd like to share concerning yourself. (How long you've been quilting, What your specialties are, etc.):

I HAVE BEEN QUILTING ABOUT 15 YEARS, BUT SEWING MOST OF MY
LIFE, MAKING CLOTHING, ETC. THIS QUILT WAS MADE SEVERAL YEARS AGO -
I NOW WORK WITH MUCH BRIGHTER COLORS. I MAKE ONLY "SCRAP QUILTS"
CHOOSING FABRICS FOR MY QUILTS IS MY FAVORITE PART OF THE
QUILTING PROCESS.

Please tell us any anecdotes you'd like to share relating to the quilt. (Why it was made, special fabrics, etc.):

SUBMISSION OF YOUR QUILT AND/OR WRITTEN ARTICLE TO *QUILTING TODAY*, *TRADITIONAL QUILTWORKS*, OR *MINIATURE QUILTS* IS YOUR GUARANTEE THAT IT IS IN NO WAY AN INFRINGEMENT ON THE RIGHTS OF OTHERS AND THAT THE MATERIAL MAY BE PUBLISHED WITHOUT ADDITIONAL APPROVAL.

Upon acceptance for publication in a specific issue, I agree not to submit the above referenced quilt and/or written article for publication elsewhere until Chitra Publications has published it.

Signature

Date

I grant Chitra Publications the right to publish a pattern for the above referenced quilt.

Signature

Date

I grant Chitra Publications the right to publish a pattern for my original quilting design.

Signature

Date

Chitra Publications may show my quilt/pattern/quilting design on its website: www.QuiltTownUSA.com

Signature

Date

About Your Photos (if applicable):

I have submitted a photo or photos of the above referenced quilt and grant Chitra Publications permission to publish said photo(s) at its discretion.

Signature

Date

Please list the name of the photographer if the photographer requires a credit to be published in the magazine.

About Our Photos (if applicable):

grant permission to photograph the above referenced quilt for publication at the discretion of Chitra Publications. Chitra Publications owns all rights to any photographs it takes.

Signature

Date

You will receive a complimentary copy of the magazine or book in which your quilt, photo(s) and/or written article appears.

Exhibit E

THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

JOANN PELLETIER,
Plaintiff

Civil Action No. 05-30109-MAP

vs.

SANDRA T. TALBOT, CHITRA
PUBLICATIONS, CHARIOT PUBLISHING,
INC. As General Partner of Chitra
Publications, CHRISTIANE MEUNIER, As
Officer of Chariot Publishing, Inc.,
CHRISTIANE MEUNIER, As Owner of
Chitra Publications, and CHRISTIANE
MEUNIER d/b/a MOON OVER MOUNTAIN,
Defendants

**PLAINTIFF PELLETIER'S ANSWERS TO FIRST SET OF
INTERROGATORIES OF DEFENDANT, SANDRA T. TALBOT**

1. Specify with particularity each element of Plaintiff's "Sew Many Spools" fabric design and/or instructions for making that design that Plaintiff contends is original to the Plaintiff.

ANSWER: The design, setting, placement of the "log cabin" spool block, 1" finished sashing, 1" finished cornerstones and the borders of the "Sew Many Spools" fabric design are original to me. It is the unique arrangement of the separate elements that makes this quilt different from other uses of the "log cabin" block and quilt designs. The "log cabin" block that is sewn into the "Sew Many Spools" quilt is also unique. The center of the block is large (compared to the size of the logs around it) and represents "thread". Plaids, checks, and stripe fabrics were used to represent the thread with the stripes placed horizontally to look like the thread wrapped around the spool. I used a 2 3/4" square as my center "thread" (finished 2 1/4" square when sew).

The 3 (1/4" wide finished) narrow logs placed above and below the "thread" are representing the SPOOL that the thread is rolled onto. The fabrics used are darker browns and blacks. They are of various

prints. The narrow logs to the right and left of the center are a light fabric used as a background so the “spool” would stand out and be easily seen.

It is unusual to use sashing and cornerstones with a log cabin block. I used it to separate the spools from one another. They stand out better than if they were all right next to each other with nothing separating them. The cornerstones added interest and kept the spools connected.

Originally I planned on only one wide border, but when it came time to sew the border on, I decided to add an additional 1” border before the final wider border. Also, in the original design, I didn’t have an additional row of sashing and cornerstones before the 1” border. I digressed from my original design by adding an additional row of sashing and cornerstones, and a 1” inner border before sewing on the last wider border.

Sew Many Spools” is machine-quilted by me. It is quilted “in the ditch” between the spool and sashing/cornerstones. There is no quilting in the log cabin “spool” block. This allows the “spool” to stand out. It is also quilted “in the ditch” before and after the first 1” border. The last 2 ½” border is quilted using loops and meandering.

2. Specify with particularity each element of Plaintiff’s Sew Many Spools fabric design and/or the instructions for making that design that Plaintiff contends is entitled to copyright protection.

ANSWER: The entire “Sew Many Spools” fabric design is entitled to copyright protection, as are the instructions. I worked the colors/values of the log cabin block so it looked like a modern, rather than antique, spool of thread typically seen in log cabin blocks. My spools have a chunky center thread area with 3 small narrow logs sewn together to look like spools that the thread is rolled onto. The typical spool-like log cabin antique blocks are very tall and narrow looking. That was not the look that I wanted. I tried various ideas and did trial and error sketches and sewing to arrive at the log cabin spool-look block that is used in the “Sew Many Spools” quilt design. I worked many hours to arrive at the size of the center “thread” and the small size of the logs. I wrote the very detailed instructions.

It is my use of a chunky “thread suggesting” fabric in the center of the log cabin block, along with 3 small dark logs above and below (to look like the spool that the thread is rolled around) and the light background fabric on each side, that makes my interpretation of the log cabin block unique. The sizes of each element of my spool log cabin block and the manner in which they work together (the types/values of fabrics used to represent thread, spool and

background) with the unusual setting/placement of the sashing and cornerstones (being used with a log cabin block), plus borders, entitle the design and instructions to copyright protection.

3. Specify with particularity each element of Plaintiff's Sew Many Spools fabric design and/or the instructions for making that design that Plaintiff contends has been copied by Defendant Talbot.

ANSWER: Talbot made the "Just Spooling Around" design in virtually the same way that I instructed her class relative to the "Sew Many Spools" design in 1993 and 1994, with very slight differences. While Talbot contends that her spools are rectangular, rather than square, that is a minor issue. She merely converted the center to a rectangle, rather than a square, because she was in a "quilt challenge" where only rectangles could be used when making the block.

Everything else remained the same as she was instructed in class. She also had to make a 1/4" (or so) adjustment on the length of the spool and background logs, depending on how much taller she made the "thread" center. There is no visual difference to the eye.

FABRIC USED - Talbot made her quilt with the exact same size (1" wide, finished) sashing and cornerstones and used the same types/values of fabrics as my "Sew Many Spools" design. The center thread is made of plaids, checks, and stripes – with stripes placed horizontally to look like thread wound around the spool – exactly above and below the center "thread") –like mine. Talbot's background fabric is light colored like mine. There are multiples of shades of white and beige fabrics that could be selected. It is a light color/value allowing the log cabin spool to stand out. Talbot used the same fabric as mine for the cornerstones. Talbot used light background fabric for her sashing just like mine. Basically, Talbot's is identical to mine in size and placement of the sashing and cornerstones. Some fabrics are identical in both quilts.

FINISHING – Talbot has nothing separating her outside spools from her border. Talbot finished her quilt as originally demonstrated in my class. Talbot's quilt is also square – 10 log cabin spool blocks across and 10 log cabin spool blocks down.

QUILTING – Talbot called me before the 2000 quilt show, concerned about how her quilt was looking without any quilting. She said that when she sewed on the buttons, (presumably to the "cornerstones") the quilt sagged when hung vertically, as it would be in the quilt show. She wasn't happy with how it was looking. I told her that it needed to be quilted to keep everything in place when it was hung vertically. She wasn't comfortable with machine quilting and even asked me to

quilt it for her. I said "no", but I did tell her exactly how to do the quilting – "stitch in the ditch" between the spool and sashing/cornerstones.

CONCLUSION – Talbot's "Just Spooling Around" quilt and my "Sew Many Spools" quilt look the same to the human eye. The only differences would be the number of blocks across and down and the added row of sashing/cornerstones and 1" border before the last border on my quilt. The shape (rectangular vs. square) of the log cabin spool block within the quilt would be undetectable to the eye unless measured. In fact, Chitra Publications (the magazine and book) wrote its instructions making a square block which was the original shape of my "Sew Many Spools" spool block.

4. Identify all prior works upon which Plaintiff's Sew Many Spools fabric design and/or the instructions for making that design is based.

ANSWER: There are no exact prior works on which my quilt was based; it is my original work. I took the traditional courthouse step/log cabin block and chose the sizes of the center and logs, along with the way the fabrics are used (color/values) to make a log cabin block that looked like a regular chunky spool of thread. I wanted something different for the look of the quilt, and chose sashing and cornerstones, as I have on other quilts I've made. I made quilts, wall hangings, tote bags, etc using a "spool-like" design from 1987 – 1993, but none of these blocks was made with a log cabin construction.

5. Identify all persons who participated in the creation of Plaintiff's Sew Many Spools fabric design and/or the instructions for making that design, and for each person identified in response to Interrogatory no. 5, described the nature of such participation, including but not limited to the elements contributed and physical contribution made.

ANSWER: I am the only individual who participated in the creation of the log cabin spool block, the finished design for the "Sew Many Spools" quilt. See answer to interrogatories no. 1, 2 and no. 4 for more detailed description of the elements and the manner in which I created the design.

6. Describe the circumstances of Plaintiff's first publication of her Sew Many Spools fabric design and the first publication of the instructions for making that design, including but not limited to the date(s) of such publication, the medium(s) used to so publish, and the persons involved in such publication.

ANSWER: January 21, 1993 was the first time the "Sew Many Spools" quilt design/instructions was revealed during the "bonus" part of a log cabin club class that Talbot attended. Talbot and other members of

the class received a lesson each month (total of 12) for the block instructions to make into a sampler quilt. They often had a "bonus" of additional things they could do with the block/or parts of the block that was the lesson for that month. For their "bonus", I showed the class the "spool" log cabin block used in a different way than our regular monthly lesson. I showed and told them about the quilt I was making using the small 3 ¾" spool log cabin block that I had created through trial and error using very narrow ¼" logs. This was nothing any of us had ever done before.

While preparing for the class, I challenged myself and made several different sizes of the "spool" log cabin block. I especially liked the small 3 ¾ "spool" that I had experimented with and made several of them. I decided that they were so different that I was going to make a quilt with them. I also gave the class the instructions (measurements) for the log cabin "spool" block and demonstrated to them with the blocks, sashing, cornerstones how it would go together to make the design of "Sew Many Spools". I laid out the cornerstones and sashing as I had drawn them with fabric pieces.

To the best of my knowledge, the January 21, 1993 class was attended by Kay Meehan, Toni ?, Penny ? (Toni and Penny are sisters – not sure of their last names), Connie Roy, Helen Bajek, Cathy Ayotte, and Sandra Talbot.

7. Identify all persons to whom Plaintiff has granted permission to exercise any of the rights available under 17 U.S.C. §106 regarding Plaintiff's Sew Many Spools fabric design, and/or the instructions for making that design.

ANSWER The students enrolled in my spool class/workshop had my permission to make a quilt/wallhanging for their personal use only. Neither Ms. Talbot nor any other individual was permitted to exercise any rights under my copyright of the "Sew many Spools" design and instructions.

8. From the time period of the creation of Plaintiff's Sew Many Spools fabric design and/or the instructions for making that design through and including April 30, 2005, identify all persons known to the Plaintiff that sold any products or materials that contained or utilized Plaintiff's Sew Many Spools fabric design and/or the instructions for making that design, or published any products or materials that contained or utilized Plaintiff's Sew Many Spools fabric design and/or the instructions for making that design, and for each such sale and/or publication, identify the date and specify with particularity the circumstances surrounding such sale and/or publication.

ANSWER Talbot sent my quilt design and instructions to CHITRA PUBLICATIONS ("Chitra") and Christiane Meunier ("Meunier") some time after SEPT 2000. Chitra and Meunier subsequently

published them in various books, magazines and websites, including:
www.QuiltTownUSA.com.

CHITRA first published my design/instructions with the credit for the quilt design/instructions going to Sandra Talbot in its magazine QUILTWORKS TODAY October/November 2003 - pages 26-27-28. On page 58, CHITRA also published added instructions for "paper foundation piecing" my "spool log cabin interpretation". This now makes it possible for more quilters to be able to make my quilt design (paper piecing is another technique for making difficult quilt blocks). This magazine is sold all over the world. It was also offered for sale on "Chitra's website."

In the August/September 2004 QUILTWORKS TODAY magazine, CHITRA had a "SPECIAL ANNOUNCEMENT". On page 18, Chitra advertised a new book that they published – "A FEW OF MY FAVORITE SCRAP QUILTS". The "spool" quilt is featured on the cover and on page 3 of the book. The quilt design/instructions are on pages 10-11-15, including the "paper foundation piecing" technique. In the October/November 2004 issue of QUILTWORKS TODAY magazine, page 19, an advertisement states that the book is "*on sale now!*". It shows the cover of "A FEW OF MY FAVORITE SCRAP QUILTS" featuring the spool quilt on the cover - \$14.95. The ad states that the book is: "*available at fine quilt shops and fabric stores everywhere. Shop on-line at: www.QuiltTownUSA.com or call (800)628-8244*".

A Few Of My Favorite Scrap Quilts has pictures and instructions for making 10 of Christiane Meunier's favorite quilts that have been published in her magazines previously. The book is also available through quilt mail order catalogs.

CONNECTING THREADS catalog, Oct 2004 issue, page 38. "A Few of My Favorite Scrap Quilts" book is pictured with the Spool quilt on the cover. There is also a larger full color picture of the quilt in its catalog. It is a flat view of the whole quilt (not draped as on the bookcover). Connecting Threads also advertised the book on its website calling it "one of their best selling quilt books". They advertised the book for months. They are located at – PO Box 870760, Vancouver WA 98687-7760, a major quilt supply mail order company.

Keepsake Quilting located at Route 25B, PO Box 1618, Center Harbor NH 03226-1618 advertised the quilt in its "almost spring" and summer update 2005 issues.

Thimbleworks Quilt Shop located at 56 Shaker Road, East Longmeadow MA sold the book in September 2004.

Quilters Dream located in Willimantic CT sold the book in May 2005.

I have seen the book at quilt shows. I saw the book at several vendors' booths in Lancaster PA in April 2005 and at the Quilters Heritage Quilt Show, November 2004.

I have seen it on internet websites all over the world including:

<http://www.quiltadventures.com/bkfavoritescrapquilts.html>

[http://www.quiltworksonline.com/cgi-bin/Store/store.cgi?cart_id=&product=Chitra Publications](http://www.quiltworksonline.com/cgi-bin/Store/store.cgi?cart_id=&product=Chitra+Publications)

<http://www.amazon.com/exec/obidos/search-handle-url/104-6584107-9819901?%5Fencoding=UTF8&dym=0&search-type=ss&index=stripbooks%3Arelevance-above&field-keywords=a%20few%20of%20my%20favorite%20scrap%20quilts%20meunier> as recently as April 10, 2006.

There are so many that it is impossible to list all the websites around the world which advertise the book for sale.

9. Identify all activities undertaken by Plaintiff to assert or enforce any alleged copyrights in her Sew Many Spools fabric design and/or the instructions for making that design, and/or any derivative work thereof.

ANSWER I told students in my classes that they were only permitted to use the instructions to make the design for their personal use. I read copyright articles aloud in class, and we discussed the fact that only the person who had the copyright had the right to make any derivative of the original design.

In April - May 2000, I gave each student in my log cabin club classes a paper saying that what they made from the class instructions "*was meant for their own personal use and enjoyment – NOT for public display or publication*". This also applied to the "bonus" design/instructions for the "Sew Many Spools" design. I personally read copyright information to the class and discussed it with all the log cabin class students, including Talbot. Also in 2000, Talbot threatened to submit the Copyright Pattern and Design to Chitra. I told her that it was not her design to give away. I also said "don't give my design away". Also, I told her that she had made a quilt "just like my drawings and instructions" that I had taught her. In September 2000, she told me that she hadn't yet sent it to Chitra. I told her not to come back to class.

MAY 3 2000 - 2:33 p.m. I called Chitra (570-278-1984) and told the representative that the "spool" pattern/design that Chitra published was my work, not Talbot's.

On September 21, 2004, Attorney Deborah Basile of Doherty, Wallace, Pillsbury and Murphy, P.C. sent a cease and desist letter to Talbot, Meunier and Chitra on my behalf.

10. Specify with particularity when and how the Plaintiff first became aware of Defendant Talbot's submission of "JUST SPOOLING AROUND" to Defendant Chitra.

ANSWER I became aware that Talbot had sent my quilt design/instructions to Chitra when the QUILTWORKS TODAY Oct/Nov 2003 issue was published in October 2003. Chitra printed the design/instructions on pages 26-28.

I found out about the book "A Few of My Favorite Scrap Quilts" by Christiane Meunier and Chitra when a friend asked me if I'd read the e-mail from Thimbleworks Quilt Shop on September 1, 2004. She told me what it said about the quilt. I wasn't able to look at the e-mail for many days. I was very upset that Talbot had given the design to Chitra.

The e-mail said, . . . "A Few of My Favorite Scrap Quilts" from Chitra – with a quilt by customer Sandy Talbot and quilted by our Jan Gilbert.

11. Describe with particularity any direct evidence of copying upon which Plaintiff intends to rely to prove infringement.

ANSWER As discussed in prior interrogatory answers, Talbot obtained instructions for the copyrighted design while attending my log cabin club spool classes/workshop and made a virtually identical design as I had instructed her class relative to the "Sew Many Spools" design in 1993 and 1994. The elements of my spool log cabin block and the manner in which they work together, i.e., type/values of fabrics used to represent thread, spool and background, with the unusual setting/placement of the sashing and cornerstones, plus borders and color/values of the log cabin block designed to look like a modern spool of thread are all direct evidence of Talbot's infringement of my copyright. I reserve my right to further supplement this response prior to trial.

12. Identify any charted, modifications, or revisions to Plaintiff's Sew Many Spools fabric design from the date of its creation to the present, including the date each such change, modification or revision was made.

ANSWER As discussed in prior interrogatory answers, I tried various ideas and made trial and error sketches and sewing to arrive at the log cabin spool look that I used in the copyrighted design and instructions. I tried both the ¼" finished logs and the ½" finished logs in the design.

Originally I planned on only one wide border but when it came time to sew the border, I decided to add an additional 1" border before the final wider border. I also added a row of sashing and cornerstones and a 1" inner border before sewing on the last wider border.

13. Set forth with particularity Plaintiff's damages calculation, including a detailed description of the theory upon which the claim for damages is based.

ANSWER I seek statutory damages for the defendants' unauthorized reproduction, publication and distribution of my quilt design and instructions. I no longer teach quilting classes as a result of the distress that I have experienced due to the conduct of the defendants. I have also incurred substantial attorney's fees and costs in prosecuting the defendants' copyright violations.

I seek to recover all profits realized by the defendants from their unauthorized use of my copyrighted design. Such profits will be based on the volume of sales from the publication and distribution of my quilt design in various stores and on various websites operated by the defendants and any successor company, entity or individual. In addition to statutory damages, I seek to recover actual damages equivalent to all income received and sales generated by the defendants as a result of this infringement and for all other rights and remedies available by all applicable state or federal law. I reserve my right to supplement this response prior to trial.

14. Identify with particularity any activities from January 21, 1993 to the present taken by Plaintiff to protect her Sew Many Spools fabric design, and/or the instructions for making that design.

ANSWER See answer to interrogatory no. 9 above.

15. State in detail all facts which support the allegations contained in paragraphs 13-15 of the Plaintiff's Complaint.

ANSWER Please clarify whether this interrogatory applies to the Plaintiff's original Complaint or Amended Complaint.

16. State in detail all facts which the Plaintiff contends support the allegations made in Count III of her Complaint.

ANSWER: Please clarify whether this interrogatory applies to the Plaintiff's original Complaint or Amended Complaint.

17. Set forth in detail all facts that the Plaintiff alleges support the allegations contained in Count V of her Complaint.

ANSWER Please clarify whether this interrogatory applies to the Plaintiff's original Complaint or Amended Complaint.

18. Identify all witnesses, other than expert witnesses, that the Plaintiff may call as a witness at the trial of this case, stating for each such person their full name, address, and the testimony expected to be given by such person.

ANSWER: The plaintiff has not yet determined which witnesses will be called at trial and reserves her right to supplement this response.

19. If you intend to call one or more expert witnesses at trial in this case, please state the following:
- a. The name and address of each such expert;
 - b. The nature and substance of any such expert opinions and expected testimony;
 - c. Any such expert witnesses' education background, employment history, and qualifications; and
 - d. Whether any such expert witness have generated a written report and, if so, the dates of such reports.
-

ANSWER No such expert witnesses have yet been retained or designated. I reserve my right to supplement this response prior to trial.

20. Identify by name and address each individual who was present in any quilting class taught by the Plaintiff in which her Sew Many Spools fabric design and/or the written instructions for making that design were displayed, presented, taught, provided or in any other way conveyed by the Plaintiff and/or during which the Plaintiff expressed, either verbally or in writing, a claim of copyright in the Sew Many Spools fabric design and/or the written instructions for making that design.

ANSWER Upon information and belief, the names of students in the 4 log cabin classes that I taught at Thimbleworks Quilt Shop, East Longmeadow MA may be obtained from Pam McLaren, previous owner of Thimbleworks. There were approximately 8 – 15 students in each of the 4 log cabin classes.

To my knowledge, the following individuals attended the "spool" class that I taught in Enfield, CT on July 12, 1994:

Nell Parsons – 282 Taylor Rd – Enfield CT 06082

Mary Lou Wade – moved to Florida

Cynthia Mahdalik – 15 Laurel Dr – Stafford Springs CT

Jeannine Racine – Enfield CT

Chris Pacewicz – moved to Florida

Janet Spencer – 9 Alaimo Drive – Enfield CT 06082

Audrey Hennis – Somers CT

Upon information and belief the following students were enrolled in the log cabin club attended by Talbot in May 2000:

Sandra Talbot -

Connie Roy - 173 Middle St - Springfield MA

Lynne Rehbein - 79 Lakeshore Drive - West Brookfield MA

Kay Meehan - 76 Arthur St - Springfield MA

Helen Bajek - 86 Oldefield Farms - Enfield CT

Kathy Ayotte - 9 Gover Road - Millbury MA

Sandy Carlson – 115 High Pine Circle – Wilbraham MA

Theresa Johnson - 66 Maplewood St - Longmeadow MA

Claire MacDonnell - 39 Pleasant View Ave - Longmeadow MA

I reserve my right to supplement this response prior to trial.

Names of Students in log cabin club – Enfield CT - 2000

Rosalie Keegan – 44 Glenwood St - Enfield CT

Dolores Lane - 20 Standish St - Enfield CT

Barbara Lange - 64 Oakwood St - Enfield CT

Norma Smith - 45 Bridge St Apt 212 - Suffield Ct

Nell Parsons - 282 Taylor Rd - Enfield CT

Betty Pearson - 110 South Road Apt 49 - Enfield CT

Janet Spencer - 9 Alaimo Dr - Enfield CT

Marge Lenentine - 72 Sunnyview Dr - Suffield CT

Cynthia Mahdalik - 15 Laurel Dr - Stafford Springs CT

Jean Hoagland - 477 Wolfswamp Rd - Longmeadow MA

I reserve my right to supplement this response prior to trial.

21. Set forth in detail any and all facts upon which the Plaintiff relies to support any allegations that any of Defendant Talbot's conduct as complained of in the

Complaint and which the Plaintiff contends to have been wrongful was conducted knowingly or intentionally.

ANSWER Talbot attended quilting classes in which I read a copyright notice stating that any quilts expressly or derivatively reproduced from my teaching, including the copyrighted pattern, was for Talbot's own personal use and enjoyment and was not for public display or publication. On or about April to September 2000, Talbot threatened to submit the copyrighted pattern and the copyrighted design to Chitra, resulting in my asking her to leave the class.

On or about April or May 2000 I asked Talbot why she wanted to give Chitra a copy of my design. She said that she wanted her name and picture in their magazine. I told her to send in something else that she had actually made and suggested several other quilts to her. Talbot indicated that the "Sew Many Spools" quilt was the one that Chitra representatives had seen at a quilt show and wanted for their publication. It appeared to me that Talbot intentionally gave Chitra the design, claiming that it was hers, in order to have her "15 minutes of fame".


3rd SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS
DAY OF MAY, 2006.


JOANN PELLETIER

CERTIFICATE OF SERVICE

I, Claire L. Thompson, do hereby certify that I have caused a copy of the foregoing to be served upon counsel of record by mailing same first class mail, postage pre-paid, to: Steven M. Coyle, Esq., Cantor Colburn, LLP, 55 Griffin Road South, Bloomfield, CT 06002 and Joseph D. Buckley, Esq., 1237 Holly Pike, Carlisle, PA 17013.

Dated: May 4, 2006


Claire L. Thompson

THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WESTERN DIVISION

CIVIL ACTION NO. 3:05-CV-30109-MAP

JOANN PELLETIER

Plaintiff,

v.

SANDRA T. TALBOT, CHITRA
PUBLICATIONS, CHARIOT PUBLISHING, INC.)
As General Partner of Chitra Publications,)
CHRISTIANE MEUNIER, As Officer of Chariot)
Publishing, Inc., CHRISTIANE MEUNIER, As)
Owner of Chitra Publications, and CHRISTIANE)
MEUNIER d/b/a MOON OVER MOUNTAIN,)
Defendants.)

**DECLARATION OF SANDRA T. TALBOT IN SUPPORT OF OPPOSITION TO
PLAINTIFF'S MOTION FOR REAL ESTATE ATTACHMENT**

1, Sandra T. Talbot, on oath, hereby depose and state as follows:

1. I am a defendant in the above-referenced matter.

2. I currently reside at 15 Prynwood Road, Longmeadow, Massachusetts. It


is my understanding that the plaintiff, JoAnn Pelletier, is seeking a \$250,000 attachment
against this real estate which is owned by my husband, Kent Talbot, and I.

3. My husband and I have lived at 15 Prynwood Road, Longmeadow,
Massachusetts for 30 years. We raised our children in this house, we now have
grandchildren who live in the area and who we regularly take care of, and we have no
present intention of moving from or otherwise conveying our home.

4. I received no compensation, nor made any profits, based upon my making or display of my quilt which is at issue in this case. I received no monetary compensation from Chitra in exchange for their publication of pictures of my quilt in one or more of their magazines or other publications. I never sold my quilt, nor otherwise commercialized it any way.

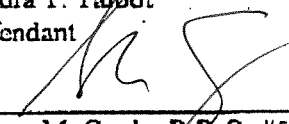
Signed and sworn to under the pains and penalties of perjuries, this 16th day of November, 2006.

Date: November 16, 2006

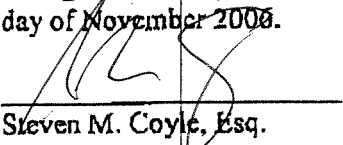

Sandra T. Talbot

Respectfully Submitted,

Sandra T. Talbot
Defendant

By 
Steven M. Coyle, B.B.O. #564189
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
(860) 286-2929

I hereby certify that a true copy of the above document was served upon the attorney of record for each party through the ECF system on the 20th day of November 2006.


Steven M. Coyle, Esq.